

**Exhibit 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

~~~~~

STATE OF OHIO,  
ex rel. DAVID P. JOYCE,  
Plaintiff,

vs. Civil Action No. 1:11-cv-02474

MERSCORP, INC., et al.,  
Defendants.

~~~~~

Deposition of  
SHARON GINGERICH  
VOLUME I

APRIL 24, 2012

9:00 a.m.

Taken at:

Baker & Hostetler, LLP  
1900 East Ninth Street, Suite 3200  
Cleveland, Ohio

Todd L. Persson, Notary Public

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Plaintiff:</p> <p>4 Bernstein Liebhard, LLP, by</p> <p>5 CHRISTIAN SIEBOTT, ESQ.</p> <p>6 SARA GOODMAN, ESQ.</p> <p>7 10 East 40th Street</p> <p>8 New York, NY 10016</p> <p>9 (212) 779-1414</p> <p>10 siebott@bernlieb.com</p> <p>11</p> <p>12 On behalf of the Defendants:</p> <p>13 Goodwin Procter, LLP, by</p> <p>14 JOSEPH F. YENOUSKAS, ESQ.</p> <p>15 901 New York Avenue, NW.</p> <p>16 Washington DC 20001</p> <p>17 (202) 346-4000</p> <p>18 jyenouskas@goodwinprocter.com</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendants, Nationwide</p> <p>4 Advantage Mortgage Company:</p> <p>5 Carpenter, Lipps &amp; Leland, LLP, by</p> <p>6 MICHAEL H. CARPENTER, ESQ.</p> <p>7 280 Plaza, Suite 1300</p> <p>8 280 North High Street</p> <p>9 Columbus, OH 43215</p> <p>10 (614) 365-4100</p> <p>11 carpenter@carpenterlipps.com</p> <p>12</p> <p>13 On Behalf of the Defendants, MERSCORP,</p> <p>14 MERS:</p> <p>15 Morgan, Lewis &amp; Bockius, LLP, by</p> <p>16 ROBERT M. BROCHIN, ESQ.</p> <p>17 200 South Biscayne Boulevard</p> <p>18 Suite 5300</p> <p>19 Miami, FL 33131</p> <p>20 (305) 415-3546</p> <p>21 rbrochin@morganlewis.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendants, Huntington</p> <p>4 National Bank, Fifth Third Bank and</p> <p>5 KeyBank National Association:</p> <p>6 Baker &amp; Hostetler, LLP, by</p> <p>7 BRETT A. WALL, ESQ.</p> <p>8 LISA M. GHANNOUM, ESQ.</p> <p>9 1900 East 9th Street</p> <p>10 Suite 3200</p> <p>11 Cleveland, OH 44114</p> <p>12 (216) 861-7597</p> <p>13 bwall@bakerlaw.com</p> <p>14 lghanoum@bakerlaw.com</p> <p>15</p> <p>16 On Behalf of the Defendants, Corelogic,</p> <p>17 Suntrust:</p> <p>18 McGlinchey Stafford, PLLC, by</p> <p>19 JAMES S. WERTHEIM, ESQ.</p> <p>20 CANDICE L. MUSIEK, ESQ.</p> <p>21 BARBARA FRIEDMAN YAKSIC, ESQ.</p> <p>22 25550 Chagrin Boulevard, Suite 406</p> <p>23 Cleveland, OH 44122</p> <p>24 (216) 378-9905</p> <p>25</p>	<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, Corinthian</p> <p>4 Mortgage Corporation, by</p> <p>5 Vorys, Sater, Seymour and Pease,</p> <p>6 LLP, by</p> <p>7 MARCEL C. DUHAMEL, ESQ.</p> <p>8 2100 One Cleveland Center</p> <p>9 1375 East Ninth Street</p> <p>10 Cleveland, OH 44114</p> <p>11 (216) 479-6112</p> <p>12 mcduhamel@vorys.com</p> <p>13</p> <p>14 On Behalf of the Defendant, MGIC Investor</p> <p>15 Services Corp.:</p> <p>16 Mansour, Gavin, Gerlack &amp; Manos Co.,</p> <p>17 LPA, by</p> <p>18 MICHAEL P. QUINLAN, ESQ.</p> <p>19 55 Public Square</p> <p>20 Suite 2150</p> <p>21 Cleveland, OH 44113</p> <p>22 (216) 523-1500</p> <p>23 mquinlan@mggmlpa.com</p> <p>24</p> <p>25</p>

Page 6	Page 8
<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, Wells Fargo</p> <p>4 Bank, N.A.:</p> <p>5 Thompson Hine, LLP, by</p> <p>6 TERRY W. POSEY, ESQ.</p> <p>7 Austin Landing I</p> <p>8 10050 Innovation Drive</p> <p>9 Suite 400</p> <p>10 Dayton, OH 45342</p> <p>11 (937) 443-6857</p> <p>12 terry.posey@thompsonhine.com</p> <p>13</p> <p>14 On Behalf of the Defendant, Deutsch Bank</p> <p>15 National Trust Company:</p> <p>16 Porter, Wright, Morris &amp; Arthur,</p> <p>17 LLP, by</p> <p>18 MARGARET M. KOESEL, ESQ.</p> <p>19 925 Euclid Avenue</p> <p>20 Suite 1700</p> <p>21 Cleveland, OH 44115</p> <p>22 (216) 443-2530</p> <p>23 mkoesel@porterwright.com</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, Home Savings:</p> <p>4 Thrasher, Dinsmore &amp; Dolan, by</p> <p>5 TODD C. HICKS, ESQ.</p> <p>6 100 7th Avenue, Suite 150</p> <p>7 Chardon, OH 44024</p> <p>8 (440) 285-2242</p> <p>9 thicks@tdlaw.com</p> <p>10</p> <p>11 On Behalf of the Defendant, Goldman Sachs</p> <p>12 Mortgage Company, 65 Mortgage Securities</p> <p>13 Corporation:</p> <p>14 K&amp;L Gates, LLP, by</p> <p>15 R. BRUCE ALLENSWORTH, ESQ.</p> <p>16 State Street Financial Center</p> <p>17 One Lincoln Street</p> <p>18 Boston, MA 02111</p> <p>19 (617) 261-3119</p> <p>20 bruce.allensworth@klgates.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 7	Page 9
<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendants, GMAC</p> <p>4 Mortgage, LLC and US Bank, N.A.:</p> <p>5 Locke Lord, LLP, by</p> <p>6 THOMAS J. CUNNINGHAM, ESQ.</p> <p>7 111 South Wacker Drive</p> <p>8 Chicago, IL 60606</p> <p>9 (312) 443-1731</p> <p>10 tcunningham@lockelord.com</p> <p>11</p> <p>12 On Behalf of the Defendant, Chase:</p> <p>13 Bricker &amp; Eckler, LLP, by</p> <p>14 CHRISTOPHER M. ERNST, ESQ.</p> <p>15 1001 Lakeside Avenue East</p> <p>16 Suite 1350</p> <p>17 Cleveland, OH 44114</p> <p>18 (216) 523-5405</p> <p>19 cernst@bricker.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, HSB Bank USA,</p> <p>4 N.A.:</p> <p>5 Ulmer Berne, LLP, by</p> <p>6 MATTHEW T. WHOLEY, ESQ.</p> <p>7 1660 West 2nd Street</p> <p>8 Suite 1100</p> <p>9 Cleveland, OH 44113</p> <p>10 (216) 583-7000</p> <p>11 mwholey@ulmer.com</p> <p>12</p> <p>13 On Behalf of the Defendant, CitiMortgage,</p> <p>14 Inc., Citigroup, Inc., and Citibank,</p> <p>15 N.A.:</p> <p>16 Mayer Brown, LLP, by</p> <p>17 DAVID D. POPE, ESQ.</p> <p>18 71 South Wacker Drive</p> <p>19 Chicago, IL 60606</p> <p>20 (312) 701-8733</p> <p>21 dpope@mayerbrown.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



Page 14	Page 16
<p>1 GCR-002427 Through ..... GCR-002431</p> <p>2 Exhibit 30 A Document Bates Stamped ..... 110</p> <p>3 GCR-002244 Through GCR-002245</p> <p>4 Exhibit 31 A Mortgage..... 116</p> <p>5 Exhibit 32 An Article From "Maple Leaf"... 132</p> <p>6 Exhibit 33 A Document Entitled "Chapter . 140 317: Recorder"</p> <p>7 Exhibit 34 A Document Bates Stamped ..... 156</p> <p>8 GCR-1286</p> <p>9 Exhibit 35 A Document Bates Stamped ..... 163</p> <p>10 GCR-001294</p> <p>11 Exhibit 36 A Document Bates Stamped ORA . 167 00147 Through ORA 00150</p> <p>12 Exhibit 37 An Article From the ..... 172</p> <p>13 Cleveland Business Website, Dated October 24, 2011</p> <p>14 Exhibit 38 A Document Bates Stamped ORA . 174</p> <p>15 00656 Through ORA 00662</p> <p>16 Exhibit 39 A Document Bates Stamped ORA . 179</p> <p>17 00921 Through ORA 00923</p> <p>18 Exhibit 40 A Document Bates Stamped ORA . 180</p> <p>19 00792</p> <p>20 Exhibit 41 A Document Bates Stamped ORA . 182</p> <p>21 00115</p> <p>22 Exhibit 42 A Document Bates Stamped ORA . 183</p> <p>23 00979 and ORA 00965</p> <p>24 Exhibit 43 A Document Bates Stamped ORA . 184</p> <p>25 00100 Through ORA 00104</p> <p>Exhibit 44 A Document Bates Stamped ..... 187</p> <p>GCO-000003 Through GCO-000005</p> <p>Exhibit 45 A Document Bates Stamped ORA . 188</p>	<p>1 Exhibit 59 A Document Bates Stamped ..... 263</p> <p>GCR-003192 Through</p> <p>2 GCR-003219</p> <p>3 Exhibit 60 A Mortgage..... 265</p> <p>4 Exhibit 61 An Assignment of Mortgage..... 266</p> <p>5 Exhibit 62 A Mortgage..... 271</p> <p>6 Exhibit 63 A Certificate of ..... 272</p> <p>Satisfaction</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 15	Page 17
<p>1 01062 Through ORA 01063.....</p> <p>2 Exhibit 46 A Document Bates Stamped ..... 190</p> <p>HP00132</p> <p>3 Exhibit 47 A Document Bates Stamped ..... 193</p> <p>4 HP00184</p> <p>5 Exhibit 48 A Document Bates Stamped ..... 194</p> <p>GCR-001306 Through</p> <p>6 GCR-001307</p> <p>7 Exhibit 49 A Document Bates Stamped ..... 198</p> <p>GCR-001518 Through</p> <p>8 GCR-001520</p> <p>9 Exhibit 50 A Document Bates Stamped ..... 199</p> <p>GCR-001910</p> <p>10 Exhibit 51 A Document Bates Stamped ..... 201</p> <p>GCR-003077</p> <p>11 Exhibit 52 A Document Bates Stamped ..... 203</p> <p>GCR-001877 Through</p> <p>12 GCR-001878</p> <p>13 Exhibit 53 A Document Bates Stamped ..... 205</p> <p>GCR-002411 Through</p> <p>14 GCR-002417</p> <p>15 Exhibit 54 A Document Bates Stamped ..... 208</p> <p>GCR-003107 Through</p> <p>16 GCR-003108, and GCR-003049</p> <p>17 Through GCR-003053</p> <p>18 Exhibit 55 A Document Bates Stamped ..... 210</p> <p>GCR-001521 Through</p> <p>19 GCR-001522, GCR-001524,</p> <p>20 GCR-001508 Through</p> <p>GCR-001520, and GCR-001479,</p> <p>21 GCR-001467, GCR-001449 and</p> <p>GCR-001450</p> <p>22 Exhibit 56 A Document Entitled "Amended . 254</p> <p>Class Action Complaint"</p> <p>23 Exhibit 57 A Mortgage..... 256</p> <p>24 Exhibit 58 A Mortgage..... 257</p>	<p>1 SHARON GINGERICH, of lawful age, called</p> <p>2 for examination, as provided by the Federal</p> <p>3 Rules of Civil Procedure, being by me first</p> <p>4 duly sworn, as hereinafter certified, deposed</p> <p>5 and said as follows:</p> <p>6 EXAMINATION OF SHARON GINGERICH</p> <p>7 BY MR. YENOUSKAS:</p> <p>8 Q. Good morning, Ms. Gingerich.</p> <p>9 A. Good morning.</p> <p>10 Q. My name is Joe Yenouskas. I</p> <p>11 represent several defendants in this matter. I</p> <p>12 will be asking you questions at your deposition</p> <p>13 today. If you don't understand a question,</p> <p>14 just let me know, and I will try to rephrase it</p> <p>15 for you. And if you don't hear a question, let</p> <p>16 me know, and I'll restate it. Does that make</p> <p>17 sense?</p> <p>18 A. Yes.</p> <p>19 Q. Could you state your full name for</p> <p>20 the record, please?</p> <p>21 A. Sharon Kathleen Gingerich.</p> <p>22 Q. What is your home address?</p> <p>23 A. 13799 Carlton Street, Burton.</p> <p>24 Q. Zip code?</p> <p>25 A. 44021.</p>

Page 18

1 Q. You are here today, Ms. Gingerich,  
 2 pursuant to two subpoenas that you received in  
 3 February?  
 4 A. Yes.  
 5 Q. Just for purposes of the record, I  
 6 want to introduce those subpoenas.  
 7 - - - - -  
 8 (Thereupon, Deposition Exhibit 1, A  
 9 Subpoena, was marked for purposes of  
 10 identification.)  
 11 - - - - -  
 12 (Thereupon, Deposition Exhibit 2, A  
 13 Subpoena, was marked for purposes of  
 14 identification.)  
 15 - - - - -  
 16 Q. Ms. Gingerich, the reporter has  
 17 handed you what's been marked as Defendants'  
 18 Exhibits 1 and 2. Do you have those documents?  
 19 A. I do.  
 20 Q. And those are the subpoenas that  
 21 you received?  
 22 A. I'm sure they are.  
 23 Q. And I just want to ask you as to  
 24 Exhibit 1, are you here to -- prepared to  
 25 testify about the topics that are identified in

Page 19

1 Exhibit Number 1? If you look at --  
 2 A. Yes. Yes.  
 3 Q. You are. Okay. Thank you.  
 4 Now, you are the Recorder of Geauga  
 5 County, Ohio?  
 6 A. Yes.  
 7 Q. When did you become Recorder of  
 8 Geauga County?  
 9 A. 2009.  
 10 Q. You are an elected official?  
 11 A. Yes.  
 12 Q. And you were elected by the  
 13 citizens of Geauga County?  
 14 A. Yes.  
 15 Q. You owe your allegiances to them as  
 16 an elected official?  
 17 A. Yes.  
 18 Q. Do you owe your allegiances to any  
 19 other Ohio county?  
 20 A. No.  
 21 Q. And you have a duty to place the  
 22 interests of the citizens of Geauga County  
 23 above any other interest; isn't that correct?  
 24 A. Correct.  
 25 Q. Is there a limit on the number of

Page 20

1 terms that you can serve?  
 2 A. No.  
 3 Q. And this is a full-time position?  
 4 A. Yes.  
 5 MR. YENOUSKAS: Let's go off the  
 6 record. Going off the record at 9:05.  
 7 (Thereupon, a recess was taken.)  
 8 MR. YENOUSKAS: Back on the record  
 9 at 9:39.  
 10 Q. Thank you for your patience, Ms.  
 11 Gingerich. Can you tell me if you know David  
 12 Joyce?  
 13 A. Yes.  
 14 Q. Who is he?  
 15 A. Our prosecutor.  
 16 Q. And by "our", you mean Geauga  
 17 County?  
 18 A. Geauga County.  
 19 Q. Is he an elected official as well?  
 20 A. Yes.  
 21 Q. How long have you known him?  
 22 A. I don't know.  
 23 Q. Roughly.  
 24 A. I don't know. Four, five, six,  
 25 seven, years -- eight, maybe.

Page 21

1 Q. And have you supported his campaign  
 2 for office?  
 3 A. How?  
 4 Q. You tell me. Have you supported it  
 5 financially?  
 6 A. No.  
 7 Q. Has he supported your campaigns?  
 8 A. Yes.  
 9 Q. And as the prosecuting attorney,  
 10 Mr. Joyce, I assume, provides legal advice to  
 11 your office on matters that you might request?  
 12 A. Yes.  
 13 Q. And you seek him out for advice  
 14 from time to time?  
 15 A. Yes.  
 16 Q. I'm not going to ask you about any  
 17 advice. I just wanted to establish that.  
 18 Could you give me a brief rundown  
 19 of your work experience before becoming the  
 20 Recorder of Geauga County?  
 21 A. I was in management. I was in  
 22 clerical and legal.  
 23 Q. Could you tell me which companies?  
 24 A. Barry Bender, Red Maple Inn,  
 25 American Society For Metals, Geauga Link.

Page 22

1 Q. I'm sorry?  
 2 A. Geauga Link.  
 3 Q. What is that?  
 4 A. Input, data input. Northeast Ohio  
 5 Operating. That's all I can think of right  
 6 now.  
 7 Q. Okay. Have you ever worked for a  
 8 lender? A lender, a mortgage lender?  
 9 A. No.  
 10 Q. Have you ever worked for MERS?  
 11 A. No.  
 12 Q. Have you ever worked for a title  
 13 company?  
 14 A. No.  
 15 Q. Have you ever worked for a bank?  
 16 A. No.  
 17 Q. Now, getting back to the Geauga  
 18 County Recorder's Office, it is a position  
 19 established by statute, correct?  
 20 A. Correct.  
 21 Q. And the powers and duties that you  
 22 exercise are only those conferred by the  
 23 statute, correct?  
 24 A. Correct.  
 25 Q. The Ohio legislature sets policy

Page 23

1 with respect to recording of documents in  
 2 Geauga County?  
 3 A. Correct.  
 4 Q. They specify the types of documents  
 5 that can be filed?  
 6 A. Correct.  
 7 Q. And they set the fees for recording  
 8 those documents?  
 9 A. Correct.  
 10 Q. Those policies are not set by  
 11 Geauga County?  
 12 A. Correct.  
 13 Q. Or by any other Ohio county?  
 14 A. Correct.  
 15 Q. And as the Recorder -- strike that.  
 16 When was your office founded?  
 17 A. Explain.  
 18 Q. When was it first created, I should  
 19 say?  
 20 A. 200 and some years ago.  
 21 Q. And can you just give me an  
 22 overview of the functions that the office  
 23 performs?  
 24 A. We make sure that your chain of  
 25 title is correct. We record in a logical

Page 24

1 manner.  
 2 Q. So you record documents that are  
 3 presented to the office?  
 4 A. Correct.  
 5 Q. Any other functions or tasks, other  
 6 than recording the documents that are  
 7 presented?  
 8 A. No.  
 9 Q. I want to just -- I'm going to be  
 10 using some terminology today, so I just wanted  
 11 to start by making sure we're on the same sheet  
 12 of music in getting your understanding of those  
 13 terms. What is a mortgage, as you understand  
 14 it?  
 15 A. It's a loan.  
 16 Q. Do you understand that there's a  
 17 document called a "note" in addition to a  
 18 mortgage?  
 19 A. Yes.  
 20 Q. So there's two separate documents;  
 21 there's a note, which the borrower signs to  
 22 agree to repay the mortgage, correct, repay the  
 23 loan? And then there's a separate document  
 24 called a "mortgage", which gives the lender the  
 25 right to foreclose if the loan isn't paid back?

Page 25

1 A. Okay.  
 2 Q. So you understand, I want to  
 3 establish you understand they're two separate  
 4 things.  
 5 A. I didn't really, but I do now.  
 6 Q. Okay. And what is an assignment?  
 7 A. That's when something is assigned  
 8 from one person to someone else, or entity.  
 9 Q. And that is a separate document  
 10 typically from the mortgage or the note?  
 11 A. Correct.  
 12 Q. And does Geauga County accept  
 13 mortgages for filing?  
 14 A. Correct. Yes.  
 15 Q. Does it accept notes for filing?  
 16 A. I don't think so. I would have to  
 17 look on the list.  
 18 Q. Does it accept assignments for  
 19 recording?  
 20 A. Yes.  
 21 Q. How many employees are in your  
 22 office currently?  
 23 A. Three full, one part.  
 24 Q. I would like you to tell me each of  
 25 the employees and what they do, and the names.



Page 26	Page 28
<p>1 A. Celesta Mullins.  2 Q. I'm sorry?  3 A. Celesta Mullins.  4 Q. What does she do?  5 A. She is my deputy, my chief deputy.  6 Q. Okay.  7 A. Jared Spring is my office manager.  8 Mike Risko is a front desk clerk. And Beth  9 Jeckering is a part-time clerk.  10 Q. I didn't get the last name on Beth.  11 A. Jeckering.  12 Q. Can you spell it?  13 A. J-E-C-K-E-R-I-N-G.  14 Q. And what does she do again?  15 A. She's a part-time clerk.  16 Q. Can you tell me what each person in  17 the office does, starting with Celesta?  18 A. She does the finances. She does  19 the -- she's my assistant. She's my assistant.  20 Q. Anything you need her to do?  21 A. Yeah.  22 Q. How long has she been there,  23 roughly?  24 A. 12 years.  25 Q. And what about Jared Spring?</p>	<p>1 Mr. Spring things that you want to happen out  2 front, and he'll carry out those duties for  3 you?  4 A. Correct.  5 Q. What about Mike Risko?  6 A. He's a clerk.  7 Q. And what does a clerk do?  8 A. Takes in documents.  9 Q. Anything else?  10 A. No.  11 Q. So he's out front, I assume?  12 A. Correct.  13 Q. And that's his exclusive function?  14 A. Correct.  15 Q. What about Beth Jeckering?  16 A. She does scanning, and she works  17 the front desk during lunch. Takes in  18 documents.  19 Q. So when Mike Risko goes to lunch,  20 she's out front, so to speak. So Beth and Mike  21 are the two folks that will interface with the  22 public in terms of receiving documents?  23 A. And Jared.  24 Q. Jared as well. Okay.  25 - - - - -</p>
Page 27	Page 29
<p>1 A. He manages the office.  2 Q. What does that entail?  3 A. He's -- he's the office manager. I  4 mean, he --  5 Q. Well, I don't work there, so I  6 don't know what he does on a day-to-day basis.  7 A. He's the leader out front. I mean,  8 he's the manager out front.  9 Q. And what does it mean to be the  10 "manager out front"?  11 A. Employees go to him with questions.  12 He -- he's the one that I communicate with when  13 I need things done out front.  14 Q. And when you say "out front", I  15 assume you have some desk -- let me finish my  16 question before you answer. That's another  17 rule I forgot to tell you.  18 I assume that there's a front desk  19 at your office, a public desk?  20 A. Yes.  21 Q. And when members of the public come  22 to your office to do something, that's what  23 you're referring to as "out front"?  24 A. Yes.  25 Q. And so you will communicate to</p>	<p>1 (Thereupon, Deposition Exhibit 3, A  2 Document Bates Stamped GCR-002159,  3 was marked for purposes of  4 identification.)  5 - - - - -  6 Q. Ms. Gingerich, I'm handing you what  7 the court reporter has marked as Exhibit Number  8 3. And for the record, it is Bates numbered  9 GCR-2159. Is that an accurate depiction of  10 your office currently?  11 A. Yes.  12 Q. How has that organization changed  13 since you became Recorder in, I think it was  14 2009, if at all?  15 A. You mean employee-wise?  16 Q. Yeah. Has that changed at all over  17 the three-and-a-half years or so?  18 A. Yes.  19 Q. Okay. Tell me about that.  20 A. There's a new part-timer.  21 Q. Okay. And is that Elizabeth?  22 A. Yes.  23 Q. Who was in her position before  24 Elizabeth?  25 A. When I came there, there was a lady</p>

8 (Pages 26 - 29)

<p style="text-align: right;">Page 30</p> <p>1 named Jan Vondrasek. And then Don Welker, and  2 now her.  3 Q. I see. So the part-time position  4 has changed over time?  5 A. Yes.  6 Q. And the other folks had been there  7 as the dates indicate?  8 A. Right. But -- yeah. But another  9 one left, too.  10 Q. Someone before Mike Risko?  11 A. Yes. The office manager.  12 Q. Who would that have been?  13 A. Kathy Dash.  14 Q. Does these folks all live in Geauga  15 County?  16 A. No.  17 Q. Who does not live in Geauga County?  18 A. Jared.  19 Q. Where does he live?  20 A. Lake.  21 Q. Thank you. Now, we talked earlier  22 about some of the different kinds of documents  23 that can be recorded at your office. We talked  24 about mortgages being recorded, and we talked  25 about assignments being recorded. Do you</p>	<p style="text-align: right;">Page 32</p> <p>1 A. On my website.  2 - - - - -  3 (Thereupon, Deposition Exhibit 4, A  4 Printout of Fees and Charges, was  5 marked for purposes of  6 identification.)  7 - - - - -  8 Q. Ms. Gingerich, I'm handing you a  9 printout. It doesn't have any Bates numbers on  10 it. It's approximately 13 pages. But is that  11 a printout from your website of the fees and  12 charges that Geauga County will assess for  13 recording documents?  14 A. Yes.  15 Q. And is that accurate, as far as you  16 know, currently?  17 A. Yes.  18 Q. Now, as we discussed earlier,  19 Geauga County is a public agency?  20 A. Yes.  21 Q. It renders service to the public  22 when it records documents?  23 A. Yes.  24 Q. And if it doesn't record a  25 document, it's not entitled to receive a fee</p>
<p style="text-align: right;">Page 31</p> <p>1 recall that?  2 A. Yes.  3 Q. What are some of the other kinds of  4 documents that the members of the public can  5 record?  6 A. Deeds, powers of attorney,  7 partnerships, leases.  8 Q. I'm sorry?  9 A. Leases.  10 Q. And does Geauga County Recorder's  11 Office charge a fee for every document that's  12 presented for recording?  13 A. Yes.  14 Q. Has the amount of those fees and  15 charges changed over time?  16 A. Yes.  17 Q. And is that a result of changes by  18 the legislature?  19 A. Yes.  20 Q. And I assume they've generally gone  21 up?  22 A. Yes. Yes.  23 Q. Where could I find a listing of the  24 fees and charges that Geauga County assesses  25 for recording documents?</p>	<p style="text-align: right;">Page 33</p> <p>1 for not performing services, correct?  2 A. Correct.  3 Q. Could you tell me the different  4 ways in which a document may be sent to you for  5 recording? I assume there are different ways  6 that could be done?  7 A. Mail.  8 Q. Mail is one way?  9 A. Yeah.  10 Q. And we talked about a person coming  11 in to the front desk?  12 A. Right.  13 Q. So that's the second way?  14 A. Yes. I'm sorry.  15 Q. You have to answer audibly. That's  16 another rule I forgot to mention. Audible  17 answers are required.  18 And you also -- or do you have  19 e-recording?  20 A. No.  21 Q. You do not?  22 A. I do not.  23 Q. Do you want to have e-recording?  24 A. Yes.  25 Q. Why hasn't that become a reality in</p>

<p style="text-align: right;">Page 34</p> <p>1 Geauga County?</p> <p>2 A. The IT department was unable to</p> <p>3 make it work.</p> <p>4 Q. Why was that?</p> <p>5 A. I don't know.</p> <p>6 Q. An IT problem?</p> <p>7 A. Yeah.</p> <p>8 Q. Do other counties around the</p> <p>9 country have e-recording?</p> <p>10 A. Yes.</p> <p>11 Q. Do other counties in Ohio have</p> <p>12 e-recording?</p> <p>13 A. Yes.</p> <p>14 Q. It varies by county?</p> <p>15 A. Yes.</p> <p>16 - - - - -</p> <p>17 (Thereupon, Deposition Exhibit 5, A</p> <p>18 Document Bates Stamped GCR-001281,</p> <p>19 was marked for purposes of</p> <p>20 identification.)</p> <p>21 - - - - -</p> <p>22 Q. Here's one more document about</p> <p>23 fees. I'm handing you what's been marked as</p> <p>24 Exhibit Number 5. And for the record, it's</p> <p>25 Bates number GCR-1281. Can you identify this</p>	<p style="text-align: right;">Page 36</p> <p>1 in other ways?</p> <p>2 A. I'm -- I don't know what you mean.</p> <p>3 Q. Can a mortgagee hand write on a</p> <p>4 mortgage that the mortgage has been assigned to</p> <p>5 someone else? Does Geauga County allow</p> <p>6 handwriting on mortgages?</p> <p>7 A. No.</p> <p>8 Q. Have you ever --</p> <p>9 A. Once it's been recorded?</p> <p>10 Q. Handwriting on the actual mortgage,</p> <p>11 correct.</p> <p>12 A. No.</p> <p>13 Q. Have you ever seen that done?</p> <p>14 A. No.</p> <p>15 Q. Do you know whether that's done in</p> <p>16 other Ohio counties?</p> <p>17 A. I don't know.</p> <p>18 Q. Do you know whether the code allows</p> <p>19 handwriting on mortgages?</p> <p>20 A. I don't know.</p> <p>21 Q. Can a person assign a mortgage by a</p> <p>22 notation on the marginal record with respect to</p> <p>23 that mortgage?</p> <p>24 A. I would have to look. I mean, I</p> <p>25 would have to look at -- I don't know.</p>
<p style="text-align: right;">Page 35</p> <p>1 document?</p> <p>2 A. This is a schedule of fees for UCCs</p> <p>3 and liens.</p> <p>4 Q. And I assume -- is this something</p> <p>5 that's posted in your office for the public to</p> <p>6 see?</p> <p>7 A. Yes.</p> <p>8 Q. And would it be probably</p> <p>9 duplicative of the website we just saw in some</p> <p>10 respects?</p> <p>11 A. Yes.</p> <p>12 Q. Please wait for me to finish.</p> <p>13 A. I'm sorry.</p> <p>14 Q. That's okay. You just know what my</p> <p>15 question is going to be, and you want to give</p> <p>16 the answer.</p> <p>17 Now, I would like to talk a little</p> <p>18 bit about recording of assignments. I assume</p> <p>19 that a person can record an assignment by</p> <p>20 presenting a written document to you that is an</p> <p>21 assignment?</p> <p>22 A. Yes.</p> <p>23 Q. And you will record that document?</p> <p>24 A. Yes.</p> <p>25 Q. Can a mortgagee assign a mortgage</p>	<p style="text-align: right;">Page 37</p> <p>1 - - - - -</p> <p>2 (Thereupon, Deposition Exhibit 6, A</p> <p>3 Document Entitled "Chapter 5301:</p> <p>4 Conveyances; Encumbrances", was</p> <p>5 marked for purposes of</p> <p>6 identification.)</p> <p>7 - - - - -</p> <p>8 Q. Ms. Gingerich, I'm handing you what</p> <p>9 has been marked as Defendants' Exhibit 6. And</p> <p>10 it is a printout of -- well, first of all,</p> <p>11 you're aware of the Ohio Code, as we talked</p> <p>12 earlier, regulates what Recorders can and</p> <p>13 cannot do?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever looked at the code</p> <p>16 before?</p> <p>17 A. Yes.</p> <p>18 Q. You're aware that Chapter 5301 is</p> <p>19 one of the provisions of the code that applies</p> <p>20 to recording of documents?</p> <p>21 A. Yes.</p> <p>22 Q. This is Chapter 5301; do you agree?</p> <p>23 A. Yes.</p> <p>24 Q. Turn over to 5301.31. It's on page</p> <p>25 22 of 53. If you look at the upper right-hand</p>

10 (Pages 34 - 37)

<p style="text-align: right;">Page 38</p> <p>1 corner, there's a page number. Why don't you 2 just read that over for a second. 3 Ms. Gingerich, do you see where it 4 says in the second line; "A mortgage may be 5 assigned or partially released by the holder of 6 the mortgage by writing 'assignment' or 7 'partial lease' on the original mortgage?" 8 A. Yes. 9 Q. "Or upon margin of the record of 10 the original mortgage and signing it?" 11 A. Yes. 12 Q. Do you agree with me the code 13 appears to allow for those methods of 14 assignment? 15 A. Yes. 16 Q. Thank you. What is the required 17 charge for a written assignment, if you recall? 18 You can look at the document, if you want. 19 MR. SIEBOTT: Which document do you 20 want her to look at? 21 MR. YENOUSKAS: The fee schedule. 22 A. Assignments, subordinations, waiver 23 priorities, \$16 for the first two pages, \$4 for 24 each additional page. 25 Q. If a person assigned -- if a person</p>	<p style="text-align: right;">Page 40</p> <p>1 I don't know. 2 Q. You don't know. 3 MR. SIEBOTT: Can we take a brief 4 break? 5 MR. YENOUSKAS: Sure. 6 (Thereupon, a recess was taken.) 7 MR. YENOUSKAS: We are back on the 8 record at 10:11, having broken at 10:02. 9 Q. Ms. Gingerich, we were just talking 10 about whether a person who owns more than one 11 mortgage can assign his or her interest in that 12 mortgage by one instrument rather than by 13 separate instruments. Do you recall that 14 discussion? 15 A. Yes. 16 Q. And you have testified you don't 17 recall whether that was possible? 18 A. Correct. 19 - - - - - 20 (Thereupon, Deposition Exhibit 7, A 21 Document Bates Stamped GCR-002789, 22 GCR-002785 and GCR-002716, was 23 marked for purposes of 24 identification.) 25 - - - - -</p>
<p style="text-align: right;">Page 39</p> <p>1 assigned a mortgage by writing on it, what 2 would you charge them? 3 A. You know, you would have to ask 4 staff. I -- I don't know. 5 Q. Who on your staff would best know 6 that? 7 A. Everyone. 8 Q. Do you know what the charge is for 9 a marginal notation for an assignment? 10 A. \$4. 11 Q. Now, Ms. Gingerich, I wanted to 12 talk about the scenario where a person has 13 placed in the land records more than one 14 mortgage. So, for example, they have 10 15 mortgages on file in Geauga County. If that 16 person wants to assign its interest in those 10 17 mortgages, does it need to make 10 separate 18 written assignments? 19 A. Say that again. 20 Q. A person owns 10 mortgages, and it 21 wants to assign its interest in those 10 22 mortgages. Does it need to do 10 separate 23 assignments, or may it record one document that 24 references the 10 mortgages? 25 A. I would have to see the document.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Ms. Gingerich, I'm handing you a 2 document which the reporter has marked as 3 Defendants' Exhibit Number 7. It's several 4 e-mails that your office produced in response 5 to those subpoenas that we talked about 6 earlier. For the record, it's Bates number 7 GCR-2789, 2785 and 2716. 8 Do these documents help refresh 9 your recollection about whether a person can 10 assign their interest in multiple mortgages 11 through a single document? 12 A. No. 13 Q. It doesn't help you recall. 14 Did you read these documents at the 15 time they were sent around? 16 A. I don't remember. 17 Q. You don't remember. 18 And what is -- the first document 19 talks about "OhioRecordersTechniserve.com". 20 What is that, at the very top? 21 A. That's this ListServe, where they 22 send questions. 23 Q. What is a ListServe? 24 A. Somebody sends a question, and it 25 goes to everybody.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. And when you say "everybody" --</p> <p>2 A. Recorders.</p> <p>3 Q. All of the Ohio Recorders have</p> <p>4 access to that ListServe?</p> <p>5 A. Yes.</p> <p>6 - - - - -</p> <p>7 (Thereupon, Deposition Exhibit 8, A</p> <p>8 Document Bates Stamped GCR-003181</p> <p>9 and GCR-003182, was marked for</p> <p>10 purposes of identification.)</p> <p>11 - - - - -</p> <p>12 Q. Ms. Gingerich, I'm handing you</p> <p>13 what's been marked as Exhibit Number 8. For</p> <p>14 the record, it's GCR-3181 and 3182. If you</p> <p>15 could read that e-mail at the top, and tell me</p> <p>16 if that helps refresh your recollection about</p> <p>17 the issue we're talking about?</p> <p>18 A. I -- that was in 2008, so --</p> <p>19 Q. Prior to your time. But you had</p> <p>20 it -- I assume to produce it it was somehow in</p> <p>21 your records, available to you at Geauga</p> <p>22 County?</p> <p>23 A. Yes.</p> <p>24 Q. That's information that was</p> <p>25 available to you?</p>	<p style="text-align: right;">Page 44</p> <p>1 A. No.</p> <p>2 Q. You have not. Turn to page 4 of</p> <p>3 the document, if you would. And there's the</p> <p>4 first full paragraph there that starts with the</p> <p>5 words "the language." And then if you go down</p> <p>6 to the last sentence of that paragraph, it</p> <p>7 says; "A County Recorder has no authority under</p> <p>8 these specific provisions, however, to limit</p> <p>9 the number of satisfactions, cancellations,</p> <p>10 assignments, partial releases or waivers of</p> <p>11 priority may be executed and recorded by means</p> <p>12 of a single instrument." Do you see that</p> <p>13 language?</p> <p>14 A. I do.</p> <p>15 Q. Does that help refresh your</p> <p>16 recollection about the issue we're talking</p> <p>17 about?</p> <p>18 A. No.</p> <p>19 Q. Have you read that language before?</p> <p>20 A. Probably -- I don't recall.</p> <p>21 Q. Have you discussed this issue with</p> <p>22 anyone previously --</p> <p>23 A. No.</p> <p>24 Q. -- before today, this issue of</p> <p>25 multiple assignments by virtue of a single</p>
<p style="text-align: right;">Page 43</p> <p>1 A. Yes.</p> <p>2 - - - - -</p> <p>3 (Thereupon, Deposition Exhibit 9, A</p> <p>4 Document Bates Stamped GCR-000452</p> <p>5 Through GCR-000459, was marked for</p> <p>6 purposes of identification.)</p> <p>7 - - - - -</p> <p>8 Q. Ms. Gingerich, I'm handing you</p> <p>9 what's been marked as Exhibit Number 9. Again,</p> <p>10 it was produced by you and in response to our</p> <p>11 subpoena. It's GCR-452 through 459. What is</p> <p>12 this document?</p> <p>13 A. An opinion.</p> <p>14 Q. I'm sorry?</p> <p>15 A. It's an opinion.</p> <p>16 Q. And who issued the opinion?</p> <p>17 A. Betty Montgomery.</p> <p>18 Q. Who is she?</p> <p>19 A. She was the Attorney General.</p> <p>20 Q. Does your office maintain a file of</p> <p>21 Attorney General opinions that relate to</p> <p>22 recording issues?</p> <p>23 A. Yes.</p> <p>24 Q. Have you read this opinion before</p> <p>25 today?</p>	<p style="text-align: right;">Page 45</p> <p>1 instrument?</p> <p>2 A. No.</p> <p>3 Q. Never?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Okay.</p> <p>6 - - - - -</p> <p>7 (Thereupon, Deposition Exhibit 10, A</p> <p>8 Document Bates Stamped GCR-001833</p> <p>9 Through GCR-001837, was marked for</p> <p>10 purposes of identification.)</p> <p>11 - - - - -</p> <p>12 Q. Ms. Gingerich, I'm handing you</p> <p>13 what's been marked Exhibit Number 10. And for</p> <p>14 the record, it's GCR-1833 through 1837.</p> <p>15 Have you seen this document before?</p> <p>16 A. Yes.</p> <p>17 Q. Thank you. We're in the right time</p> <p>18 frame of March 2012. What is this document?</p> <p>19 A. It is a list of the questions and</p> <p>20 the answers from ListServe.</p> <p>21 Q. Did you write this document?</p> <p>22 A. I did.</p> <p>23 Q. What was the purpose of writing</p> <p>24 this document?</p> <p>25 A. I am the moderator for the Q&amp;A at</p>

12 (Pages 42 - 45)

Page 46

1 the Recorders Association.

2 Q. And what does the moderator do?

3 A. Cuts and pastes, prints it out and  
4 hands it to everybody.

5 Q. It's a glorified title.

6 And so this was used at a March  
7 12th meeting, I take it?

8 A. Yes.

9 Q. And take a look down at the bottom  
10 of the first page. There's some bullet points.  
11 Do you agree with me that seems to relate to  
12 the issue we're talking about here today,  
13 specifically the last two bullet points from  
14 the bottom?

15 MR. SIEBOTT: Objection. Could you  
16 specify the issue that you mean right now?

17 Q. Sure. The issue of whether a  
18 person can assign multiple mortgages for a  
19 single instrument. Take a look at the third  
20 bullet point. "We cannot limit any number of  
21 cited marginal references on a document. Sad  
22 but true. They can have a million cited on one  
23 filing and we cannot refuse it." Do you see  
24 that, the third bullet point?

25 A. One, two, three -- if they refuse

Page 47

1 the original document?

2 Q. No. I'm sorry. The fourth bullet  
3 point. I'm causing some confusion. Right in  
4 the middle of that bullet point, it says; "We  
5 cannot limit any number of cited marginal  
6 references on a document. Sad but true. They  
7 can have a million cited on one filing and we  
8 could not refuse it. AG opinion by Betty  
9 Montgomery. If memory serves me correctly, oil  
10 and gas got the no limit inserted into our  
11 standards bill." Do you see that?

12 A. Yes.

13 Q. Do you recall discussion around  
14 that issue?

15 A. No. They're probably wasn't any.

16 Q. You put it in this document because  
17 someone had asked a question about it?

18 A. Yeah.

19 Q. Okay. That's fine.

20 Now, if a person records a mortgage  
21 in the Geauga County Recorder's Office, do you  
22 have any way of knowing whether that mortgage  
23 has been assigned if an assignment has not been  
24 recorded?

25 A. No.

Page 48

1 Q. You would need to ask the person  
2 that recorded the document whether they had  
3 assigned their interest?

4 A. No.

5 Q. How would you -- if you can't tell  
6 from your records, the only person who could  
7 tell who assigned the document would be the  
8 person who put the document on file in the  
9 first place, correct?

10 A. We just record. We don't --

11 Q. I understand that. But if you  
12 wanted to figure out whether that mortgage had  
13 been assigned, how would you do it?

14 A. Well, we would look to see if there  
15 was an assignment for it.

16 Q. And if there was not, then what  
17 would you do?

18 A. Nothing.

19 Q. But if you were asked to find out  
20 if it had been assigned, how could you do that?  
21 You could talk to the person that recorded the  
22 mortgage, correct?

23 A. We could. But we wouldn't.

24 Q. And does Geauga County know the  
25 number of times a mortgage may or may not have

Page 49

1 been assigned if there are no written  
2 assignments on file?

3 A. No.

4 Q. Again, that would depend on the  
5 specific files as to each mortgage with the  
6 people that put them on file?

7 A. Correct.

8 Q. One of my co-counsel pointed out to  
9 me on the break that I had asked you about the  
10 functions of the various folks in your office  
11 but not your function. Can you tell me what  
12 you do as the Recorder?

13 A. Everything.

14 Q. What does "everything" entail?

15 A. I input. I index. I back-scan. I  
16 answer correspondence. I assist the public. I  
17 back-scan documents, negotiate contracts.

18 Q. That's helpful. Thank you.

19 Does everyone in the office also  
20 get involved in indexing and back-scanning?

21 A. No.

22 Q. Who does the indexing and  
23 back-scanning in addition to yourself?

24 A. Jared, Mike and Beth.

25 Q. So it sounds like Celesta is a true

<p style="text-align: right;">Page 50</p> <p>1 administrative assistant?</p> <p>2 A. Correct.</p> <p>3 Q. Now, help me out on some really</p> <p>4 technical stuff. Once a document is presented</p> <p>5 for recording, what happens next at your</p> <p>6 office?</p> <p>7 A. It's scanned, put into the system,</p> <p>8 indexed and returned. The original is</p> <p>9 returned.</p> <p>10 Q. Now, when you say it's scanned, who</p> <p>11 does the scanning?</p> <p>12 A. The person who takes in the</p> <p>13 document.</p> <p>14 Q. And how do they actually physically</p> <p>15 scan the document? Is there a machine?</p> <p>16 A. Yes.</p> <p>17 Q. And does that make a PDF image of</p> <p>18 the document?</p> <p>19 A. Yes.</p> <p>20 Q. And indexing, what does that</p> <p>21 involve?</p> <p>22 A. You take the legal, and you write</p> <p>23 it into the allotted boxes, the volume and page</p> <p>24 of -- I'm trying to picture it in my mind. You</p> <p>25 just fill in the blanks.</p>	<p style="text-align: right;">Page 52</p> <p>1 that it's correct. So we don't give it back</p> <p>2 right away.</p> <p>3 Q. So it might be the next day that</p> <p>4 it's mailed back?</p> <p>5 A. It's always the next day.</p> <p>6 Q. So within one day this process</p> <p>7 would be completed?</p> <p>8 A. Correct.</p> <p>9 Q. And at what point in the process</p> <p>10 does the document become a public record?</p> <p>11 A. As soon as it's scanned and</p> <p>12 verified.</p> <p>13 Q. And what is "verified"? That</p> <p>14 sounds like a new term.</p> <p>15 A. Make sure it's straight. You make</p> <p>16 sure it's not off to the side or that side, or</p> <p>17 up too far, down too high. Make sure it's not</p> <p>18 blurry.</p> <p>19 Q. So it meets all the requirements</p> <p>20 set out in the code for being an acceptable</p> <p>21 document to be recorded?</p> <p>22 A. Yes.</p> <p>23 Q. And you have to accept those</p> <p>24 documents for filing, but you could charge an</p> <p>25 additional fee if they're nonconforming; isn't</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. So when you say you "fill in the</p> <p>2 blanks", what are you filling in? Is there a</p> <p>3 form that you have?</p> <p>4 A. Grantor, grantee, acreage, legal</p> <p>5 description, mortgage. If it's a mortgage,</p> <p>6 value, if it's a mortgage.</p> <p>7 Q. And I understand you're describing</p> <p>8 to me the types of data that you index. What</p> <p>9 does the actual index look like physically? Is</p> <p>10 that computerized as well?</p> <p>11 A. Yes.</p> <p>12 Q. So if a member of the public wanted</p> <p>13 to see documents about a certain property they</p> <p>14 could search at a public terminal there at the</p> <p>15 office?</p> <p>16 A. Correct.</p> <p>17 Q. And how long does that process --</p> <p>18 then you return the document?</p> <p>19 A. Correct.</p> <p>20 Q. If the person is there in-person,</p> <p>21 you give it right back to them while they're</p> <p>22 waiting?</p> <p>23 A. No.</p> <p>24 Q. What do you do?</p> <p>25 A. We scan it. We want to make sure</p>	<p style="text-align: right;">Page 53</p> <p>1 that correct?</p> <p>2 A. Correct.</p> <p>3 Q. How long has Geauga County, if you</p> <p>4 know, been scanning the documents that are</p> <p>5 presented to the Recorder?</p> <p>6 A. I do not know.</p> <p>7 Q. How far back does the index go in</p> <p>8 time?</p> <p>9 A. I believe we're in the 1980s.</p> <p>10 Q. And if someone wanted to research</p> <p>11 information about a mortgage prior to the</p> <p>12 1980s, how would they do that?</p> <p>13 A. They would go to the book.</p> <p>14 Q. Go ahead.</p> <p>15 A. There's an index paper. They would</p> <p>16 have to use paper.</p> <p>17 Q. So there's a paper record before</p> <p>18 the computer system started?</p> <p>19 A. Yes.</p> <p>20 Q. And those are maintained at your</p> <p>21 office?</p> <p>22 A. Yes.</p> <p>23 Q. The public can look at those?</p> <p>24 A. Yes.</p> <p>25 Q. How far back do those go?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. Supposedly the 1700s.</p> <p>2 Q. Thank you. Now, I assume that</p> <p>3 accuracy is important for your job in terms of,</p> <p>4 in your office, in terms of making sure the</p> <p>5 records are correctly indexed?</p> <p>6 A. Yes.</p> <p>7 Q. How does your office seek to ensure</p> <p>8 that there are accurate indexes of documents?</p> <p>9 Do you perform audits?</p> <p>10 A. Okay --</p> <p>11 Q. How do you make sure the data has</p> <p>12 been entered correctly as to a particular</p> <p>13 transaction?</p> <p>14 A. When I told you we take the</p> <p>15 documents in, one person takes them in, the</p> <p>16 second person looks it over. Often the office</p> <p>17 manager will look again.</p> <p>18 Q. Thank you. And separate and apart</p> <p>19 from that process that goes on each day, do you</p> <p>20 do any random audits to check the information</p> <p>21 entered?</p> <p>22 A. No.</p> <p>23 Q. No other checks?</p> <p>24 A. No.</p> <p>25 Q. Do you know if every Ohio county</p>	<p style="text-align: right;">Page 56</p> <p>1 as well? How do they charge you?</p> <p>2 A. Per document.</p> <p>3 Q. Per document. What's the charge</p> <p>4 per document?</p> <p>5 A. I don't -- ballpark?</p> <p>6 Q. Yeah. That's fine. Whatever you</p> <p>7 can remember.</p> <p>8 A. Two dollars -- over two dollars.</p> <p>9 Q. And there's no other charge then</p> <p>10 other than that two dollars for document</p> <p>11 charge, so your yearly charge would be two</p> <p>12 dollars times the number of documents you</p> <p>13 record from ACS?</p> <p>14 A. Which question?</p> <p>15 Q. I'm just trying to figure out what</p> <p>16 Geauga County has to pay ACS every year. Is it</p> <p>17 just two dollars times the number of recorded</p> <p>18 instruments, or is there something else you pay</p> <p>19 them as well in addition to that?</p> <p>20 A. Yes.</p> <p>21 Q. You pay them something in addition?</p> <p>22 A. No. You asked two questions.</p> <p>23 That's why I say -- ask me one question.</p> <p>24 Q. Why don't you explain to me what</p> <p>25 you pay them every year.</p>
<p style="text-align: right;">Page 55</p> <p>1 scans documents?</p> <p>2 A. I do not know.</p> <p>3 Q. Some may not?</p> <p>4 A. I do not know.</p> <p>5 Q. I believe you use a vendor called</p> <p>6 ACS for doing those scanning functions, the</p> <p>7 computerized functions?</p> <p>8 A. Correct.</p> <p>9 Q. How long have you been using ACS?</p> <p>10 A. Since I've been there.</p> <p>11 Q. And tell me what services they</p> <p>12 provide -- tell me what services they provide</p> <p>13 to Geauga County.</p> <p>14 A. They -- it's their software and</p> <p>15 their equipment.</p> <p>16 Q. And how many computers, roughly, do</p> <p>17 they provide?</p> <p>18 A. We have nine public terminals and</p> <p>19 three office -- three employees.</p> <p>20 Q. And you have a contract with ACS?</p> <p>21 A. Yes.</p> <p>22 Q. Is it an annual contract?</p> <p>23 A. No. Five years.</p> <p>24 Q. Is it a flat charge for the five</p> <p>25 years, or do they charge a per recording charge</p>	<p style="text-align: right;">Page 57</p> <p>1 A. Document charge.</p> <p>2 Q. Okay. Thank you. Do you know if</p> <p>3 other Ohio counties use ACS?</p> <p>4 A. Yes.</p> <p>5 Q. Do they all?</p> <p>6 A. No.</p> <p>7 Q. Some do not?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know the names of any other</p> <p>10 vendors that provide these services?</p> <p>11 A. Cott.</p> <p>12 Q. How do you spell that.</p> <p>13 A. C-O-T-T. And there are others.</p> <p>14 Q. Do you happen to know what they</p> <p>15 charge per recording?</p> <p>16 A. I do not.</p> <p>17 Q. Is there any limit under the ACS</p> <p>18 contract of what you would need to pay them if</p> <p>19 you had an increase in recordings?</p> <p>20 A. I don't know.</p> <p>21 Q. Now, so far we've been talking</p> <p>22 about Geauga County primarily, but there are</p> <p>23 other counties in Ohio that have Recorder's</p> <p>24 Offices as well; correct?</p> <p>25 A. Yes.</p>

15 (Pages 54 - 57)



Page 58	Page 60
<p>1 Q. And most of them do, in fact?</p> <p>2 A. Correct.</p> <p>3 Q. And each of those offices has an</p> <p>4 elected Recorder?</p> <p>5 A. No.</p> <p>6 Q. They don't. Some of them are</p> <p>7 appointed?</p> <p>8 A. Correct.</p> <p>9 Q. And they -- and you talk to them</p> <p>10 frequently, I take it?</p> <p>11 A. Yes.</p> <p>12 Q. They have their own county</p> <p>13 prosecutors to advise them on various issues</p> <p>14 about recording documents that may come up?</p> <p>15 A. Yes.</p> <p>16 Q. Each of those office has their own</p> <p>17 employees?</p> <p>18 A. Yes.</p> <p>19 Q. They have their own policies and</p> <p>20 procedures?</p> <p>21 A. I don't know.</p> <p>22 Q. Do they use your policies and</p> <p>23 procedures?</p> <p>24 A. No.</p> <p>25 Q. And they have their own ways of</p>	<p>1 TOD designation affidavit need to go to the</p> <p>2 Auditor's Office before being recorded? I</p> <p>3 think not, since there's not a transfer of</p> <p>4 property."</p> <p>5 What's a "TOD designation</p> <p>6 affidavit"?</p> <p>7 A. Transfer on death.</p> <p>8 Q. And so this person, Diana Trumbull,</p> <p>9 who is she?</p> <p>10 A. Diana Marchese, Trumbull County</p> <p>11 Recorder.</p> <p>12 Q. Okay. Sorry. She put "Diana,</p> <p>13 Trumbull", so I thought that was her last name.</p> <p>14 Thank you.</p> <p>15 And then there's a response by</p> <p>16 Nikki Beltz on page 2823, which says; "In</p> <p>17 Hancock the auditor will check the legal on the</p> <p>18 TOD designation." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And then if you go to the top of</p> <p>21 page 2823, there's a response by Brian, who</p> <p>22 says in the second paragraph; "The answer seems</p> <p>23 to be different in each county." Do you see</p> <p>24 that in the second paragraph there?</p> <p>25 A. Yes.</p>
Page 59	Page 61
<p>1 handling issues that might come up about</p> <p>2 recording?</p> <p>3 A. Yes.</p> <p>4 - - - - -</p> <p>5 (Thereupon, Deposition Exhibit 11, A</p> <p>6 Document Bates Stamped GCR-002827,</p> <p>7 GCR-002823, GCR-002824, GCR-002795,</p> <p>8 GCR-002794, GCR-002790, GCR-002791,</p> <p>9 was marked for purposes of</p> <p>10 identification.)</p> <p>11 - - - - -</p> <p>12 Q. Ms. Gingerich, I'm handing you a</p> <p>13 document that's been marked as Defendants'</p> <p>14 Exhibit Number 11. It's, again, some e-mails</p> <p>15 that you produced in response to the subpoena.</p> <p>16 For the record, it's GCR-2827, 2823, 2824,</p> <p>17 2795, 2794, 2790, 2791.</p> <p>18 Do you see those documents?</p> <p>19 A. Yes.</p> <p>20 Q. I just want to go through these</p> <p>21 briefly as examples of maybe some situations</p> <p>22 where the Recorders will do things in a</p> <p>23 different manner, okay? Take a look at the</p> <p>24 third page, page 2824. And there's a question</p> <p>25 posed, looks like to your ListServe; "Does a</p>	<p>1 Q. Do you agree that issue is handled</p> <p>2 differently in different counties?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Take a look at 2795.</p> <p>5 There's a question -- it's about the fourth</p> <p>6 page in. There's a question by Wayne Coates</p> <p>7 from Hamilton County; "When you get an</p> <p>8 assignment of a mortgage with the mortgage do</p> <p>9 you write in the book and page number on the</p> <p>10 assignment?" Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And then at the top there's a</p> <p>13 response by Sarah from Henry County saying; "I</p> <p>14 will do it if instructed to do so by the</p> <p>15 sender." Do you see that?</p> <p>16 A. Okay.</p> <p>17 Q. And then if you look to the next</p> <p>18 page, there's a response from a different</p> <p>19 Recorder named Brian, 2794 -- go one more</p> <p>20 page -- Brian says; "Yes, we do write the</p> <p>21 instrument number for the mortgage on the</p> <p>22 assignment." Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. So that's another example of</p> <p>25 Recorders having their own policies and</p>

16 (Pages 58 - 61)

Page 62

1 procedures for handling recording issues?

2 A. Okay.

3 Q. Just shifting gears a little bit

4 now -- we're done with that. Thank you.

5 Ms. Gingerich, can you tell me

6 roughly how many documents were recorded in

7 Geauga County in 2011?

8 A. No. I would have to -- no.

9 - - - - -

10 (Thereupon, Deposition Exhibit 12,

11 An Online Newsletter, was marked for

12 purposes of identification.)

13 - - - - -

14 Q. Ms. Gingerich, I'm handing you

15 what's been marked Defendants' Exhibit Number

16 12. Can you identify this document?

17 A. It's my newsletter.

18 Q. And for the record, there's no

19 Bates stamp on this document. It's something

20 from your website? That's where I got it.

21 A. Yes.

22 Q. And so you send a newsletter out

23 periodically?

24 A. Yes.

25 Q. Does it go to folks in Geauga

Page 63

1 County?

2 A. No. Well, no. I'm sorry. I don't

3 send it out. I put it on my website.

4 Q. Got it. So it's there for the

5 public to read?

6 A. Yes.

7 Q. Turn over to page 2. There's sort

8 of a box with some stats there. Do you see

9 that?

10 A. Yes.

11 Q. Did you or someone on your staff

12 compile that information to put in your

13 newsletter?

14 A. Yes.

15 Q. And you believe it to be reasonably

16 accurate?

17 A. Yes.

18 Q. For 2010, if you go across from

19 left to right, I added it up. It's roughly

20 about 13,000 documents in 2010. Does that

21 sound about right being recorded, if you go

22 from left to right?

23 A. Yes.

24 Q. Okay. So that's for 2010. I'm

25 just trying to get a ballpark of what we're

Page 64

1 talking about in terms of recordings.

2 Is 2011, was it roughly the same as

3 2010?

4 A. I don't know.

5 Q. Okay.

6 A. I --

7 Q. Do you do any analysis each year to

8 see how that number is trending?

9 A. I do.

10 Q. Is it trending up or down, or

11 staying about the same?

12 A. I haven't done one in 2011. I

13 mean --

14 Q. So we don't know.

15 A. I --

16 Q. Has anyone on your staff come to

17 you and reported that it's significantly going

18 down or significantly going up?

19 A. No.

20 Q. Your answer was "no"?

21 A. No.

22 Q. How did you compile this

23 statistical information?

24 A. There's -- on the ACS computer.

25 Q. So you can run reports?

Page 65

1 A. Yes.

2 Q. And if you want to know the number

3 of mortgages in a certain year, they're in that

4 computer system, it will tell you that?

5 A. Yes.

6 Q. Can it identify the number of

7 mortgagees for a particular year that might

8 have recorded a document? Can you search by

9 name of the grantee or the mortgagee?

10 A. Yes.

11 Q. Probably whatever information you

12 input with respect to a document you could

13 search for that on the ACS system?

14 A. I can find an individual.

15 Q. Can you search the ACS system for

16 the information that you index as to each

17 particular document?

18 A. You've got to be more specific.

19 Q. That's all right.

20 - - - - -

21 (Thereupon, Deposition Exhibit 13, A

22 Document Bates Stamped GCR-000946,

23 was marked for purposes of

24 identification.)

25 - - - - -

17 (Pages 62 - 65)

Page 66

1 Q. I'm handing you what's been marked  
 2 Defendants' Exhibit 13. It's Bates number  
 3 GCR-946. Can you tell me what this is, Ms.  
 4 Gingerich?  
 5 A. This is a compilation of how many  
 6 deeds, mortgages, leases, liens, releases.  
 7 Q. Is this generated from the ACS  
 8 system?  
 9 A. Yes.  
 10 Q. If you actually compare, it appears  
 11 to be a printout that links up with what's in  
 12 your newsletter, I think?  
 13 A. Yes.  
 14 Q. If you look -- if you look down  
 15 each column, it would appear the number of  
 16 documents being recorded is declining. Let's  
 17 just look at deeds. In 2006 you had 4,114. In  
 18 2010, just 2,924. Do you see that?  
 19 A. Yes.  
 20 Q. And under "mortgages" you had 8,000  
 21 and some odd, down to 5,360. Do you see that?  
 22 A. Yes.  
 23 Q. Under "leases", it went from 524 in  
 24 2006 down to 164. Do you see that?  
 25 A. Yes.

Page 67

1 Q. Liens was about the same. Releases  
 2 went from 7,063 down to 5,123. Do you see  
 3 that?  
 4 A. Yes.  
 5 Q. Is it fair to say the number of  
 6 documents declined, at least from 2006 to 2010,  
 7 that were recorded in your office?  
 8 A. Yes.  
 9 Q. And your office generates less  
 10 revenue if fewer documents are recorded?  
 11 A. No.  
 12 Q. That's not correct?  
 13 A. No.  
 14 Q. Tell me why.  
 15 A. Because it depends on the size of  
 16 the documents.  
 17 Q. All other things being equal,  
 18 assuming that the same size documents are being  
 19 recorded during that five-year period, would  
 20 the amount of revenue be going down?  
 21 A. Yes.  
 22 - - - - -  
 23 (Thereupon, Deposition Exhibit 14, A  
 24 Document Bates Stamped GCR-000974,  
 25 was marked for purposes of

Page 68

1 identification.)  
 2 - - - - -  
 3 Q. I'm handing you what's been marked  
 4 number 14, Exhibit 14. It's GCR-974. Can you  
 5 identify this document for me? If you can't,  
 6 you can't. That's fine.  
 7 A. It's a summary of deeds with  
 8 affidavits and mortgages.  
 9 Q. Did you generate this?  
 10 A. I don't remember.  
 11 Q. Okay. That's fine.  
 12 - - - - -  
 13 (Thereupon, Deposition Exhibit 15, A  
 14 Document Bates Stamped GCR-002870,  
 15 was marked for purposes of  
 16 identification.)  
 17 - - - - -  
 18 Q. Handing you what's been marked  
 19 Defendants' Exhibit 15. Could you identify  
 20 this document for me? And for the record, it's  
 21 GCR-2870.  
 22 A. It's an ACS printout.  
 23 Q. Okay. At the top it's called an  
 24 "Auditor's Report". What's an Auditor's  
 25 Report?

Page 69

1 A. It's just a term they use.  
 2 Q. Did they print this out or were you  
 3 all able to print it out at your office?  
 4 A. I can print it out.  
 5 Q. And what's the purpose of this  
 6 document?  
 7 A. It tells you the money taken in  
 8 from July 1, 2009 to June 22, 2010, and the  
 9 total recorded documents.  
 10 - - - - -  
 11 (Thereupon, Deposition Exhibit 16, A  
 12 Document Bates Stamped GCR-002, was  
 13 marked for purposes of  
 14 identification.)  
 15 - - - - -  
 16 Q. Thank you. Just one more on this  
 17 topic. I'm handing you what's been marked as  
 18 Defendants' Exhibit 16, Ms. Gingerich. It's  
 19 Bates number GCR-002. Can you identify this  
 20 document?  
 21 A. It is a statistics page.  
 22 Q. Do you know how this was generated?  
 23 A. The information would have come  
 24 from ACS.  
 25 Q. Now, one thing on all these

<p style="text-align: right;">Page 70</p> <p>1 documents we've just seen, the last four or 2 five documents, I don't see "assignments" 3 listed as a category. Is it subsumed with one 4 of the other categories? 5 A. Probably. 6 Q. How could we find that out? 7 A. By looking at the ACS, by looking 8 at the menus. 9 Q. Is it possible that the number of 10 assignments are included? For example, on this 11 document under "release" it could be 12 categorized as a "release"? 13 A. I don't know that. 14 Q. You don't know that? 15 A. I don't know that. 16 Q. Do you have any idea the number of 17 assignments that were recorded in Geauga County 18 in 2011? 19 A. I do not. 20 Q. Any ballpark? Not even a ballpark. 21 Okay. 22 Now, what are the major expenses 23 that you incur to run your office on a yearly 24 basis? 25 A. That would be salaries and</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Any other contracts besides the 2 copying and the ACS? 3 A. No. 4 Q. Have those office expenses changed 5 materially since you've been Recorder either up 6 or down? 7 A. They've gone down a little. 8 Q. Where have they gone down? 9 A. Well, the copier, salaries. 10 Q. So you got a better contract for 11 the copying? 12 A. Yes. 13 Q. And why did salaries go down? 14 A. Because one of our long-time 15 employees left. 16 Q. Who was that? 17 A. Kathy Dash. 18 Q. And you did not replace her? 19 A. I promoted Jared. 20 Q. In order to run the office and to 21 have the funds to pay ACS and to pay salaries, 22 Geauga County Recorder's Office obtains funds 23 from Geauga County? The funding for your 24 operations comes from Geauga County? 25 A. From the general fund, yes.</p>
<p style="text-align: right;">Page 71</p> <p>1 contracts. 2 Q. So we have the ACS contract that we 3 talked about? 4 A. Right. 5 Q. Which is two dollars times every 6 recorded document, so it's not too hard to 7 figure out? 8 A. Right. 9 Q. And salaries for the folks you 10 mentioned? 11 A. Correct. 12 Q. Any other contracts, other than the 13 ACS contract? 14 A. Yes. 15 Q. What are those? 16 A. The public copiers. 17 Q. And that's if people want copies of 18 records? 19 A. Yes. 20 Q. Roughly, what do you pay for that 21 contract each year? 22 A. It is \$209 a month. Yeah. 23 Q. Anything else in a major category, 24 other than salaries and contracts? 25 A. No.</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. Yes. They allocate funds to the 2 Geauga County Recorder's Office? 3 A. Yes. 4 Q. And that is the source of funds 5 that your office uses to function? 6 A. Yes. 7 Q. You are dependent on that source of 8 funding to operate? 9 A. Yes. 10 Q. And I assume each Ohio Recorder's 11 Office has a similar arrangement with its 12 county, correct? 13 A. Yes. 14 Q. And each county's budget is going 15 to be different? 16 A. Yes. 17 Q. Depending on the various 18 circumstances they might find themselves in? 19 A. Yes. 20 Q. Tell me how the budget process 21 works in Geauga County. 22 A. We send an estimate of what we're 23 going -- our expenses are going to be. They 24 say "yes" or "no", and that's it. 25 Q. Do you do that once a year?</p>

<p style="text-align: right;">Page 74</p> <p>1 A. Yes.</p> <p>2 Q. And who do you send the request to?</p> <p>3 A. Well, the Commissioner's Office.</p> <p>4 Q. And do they hold some kind of</p> <p>5 public hearing about your request, or all the</p> <p>6 county requests, all the departments of the</p> <p>7 county, before they say "yes" or "no"?</p> <p>8 A. No.</p> <p>9 Q. It's not done publicly?</p> <p>10 A. They have meetings.</p> <p>11 Q. Okay. And are those public?</p> <p>12 A. Yes.</p> <p>13 Q. And what is the request that you</p> <p>14 send called?</p> <p>15 A. Estimated budget.</p> <p>16 Q. And who prepares that in your</p> <p>17 office?</p> <p>18 A. Celesta and I.</p> <p>19 Q. What point in the year do you make</p> <p>20 that request?</p> <p>21 A. Sometime in the summer.</p> <p>22 Q. And that would cover what period of</p> <p>23 time, the upcoming year starting January 1st?</p> <p>24 A. Calendar year.</p> <p>25 Q. Do you recall what your request was</p>	<p style="text-align: right;">Page 76</p> <p>1 determination for its own county?</p> <p>2 A. Yes.</p> <p>3 Q. Geauga County can't set the budget</p> <p>4 for Cuyahoga County, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And vice-versa?</p> <p>7 A. Correct.</p> <p>8 MR. YENOUSKAS: Take a quick break?</p> <p>9 MR. SIEBOTT: Okay.</p> <p>10 (Thereupon, a recess was taken.)</p> <p>11 MR. YENOUSKAS: Back on the record</p> <p>12 at 11:16.</p> <p>13 - - - - -</p> <p>14 (Thereupon, Deposition Exhibit 17, A</p> <p>15 Document Entitled "Annual</p> <p>16 Appropriation Resolution", was</p> <p>17 marked for purposes of</p> <p>18 identification.)</p> <p>19 - - - - -</p> <p>20 Q. Ms. Gingerich, I'm going to hand</p> <p>21 you another document. I'm handing you what's</p> <p>22 been marked Defendants' Exhibit Number 17. It</p> <p>23 has no Bates numbers on it. I found it on the</p> <p>24 Internet. Is this the Geauga County Budget</p> <p>25 Appropriation Resolution for 2012?</p>
<p style="text-align: right;">Page 75</p> <p>1 last summer for calendar year 2012, roughly?</p> <p>2 A. About 250.</p> <p>3 Q. And did the Commissioners approve</p> <p>4 that amount?</p> <p>5 A. Yes.</p> <p>6 Q. But as you mentioned, they are free</p> <p>7 to not approve that amount, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Have they done that in the past?</p> <p>10 A. No.</p> <p>11 Q. Didn't the Commissioners cut your</p> <p>12 budget by about 10 percent in 2009?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Is it fair to say that</p> <p>15 Geauga County is under some budget pressures</p> <p>16 these days?</p> <p>17 A. Yes.</p> <p>18 Q. And in setting the budget, the</p> <p>19 Commissioners of Geauga County have to do what</p> <p>20 they think is best given all the various</p> <p>21 competing needs within the county?</p> <p>22 A. Yes.</p> <p>23 Q. And each county in Ohio, each</p> <p>24 County Commissioner, set of County</p> <p>25 Commissioners in Ohio has to make a similar</p>	<p style="text-align: right;">Page 77</p> <p>1 A. I've not seen this before. So I</p> <p>2 don't know.</p> <p>3 Q. Could you turn over to page 9? Let</p> <p>4 me ask you this question before we talk about</p> <p>5 page 9. How do you learn the amount that's</p> <p>6 been budgeted for your office after the</p> <p>7 Commissioners meet?</p> <p>8 A. They send us -- they send us a</p> <p>9 sheet.</p> <p>10 Q. Is it one page, or --</p> <p>11 A. Well --</p> <p>12 Q. An e-mail?</p> <p>13 A. It's two pages.</p> <p>14 Q. It's not this document?</p> <p>15 A. No.</p> <p>16 Q. On page 9 it's got -- it talks</p> <p>17 about Recorder there in the middle, and it has</p> <p>18 various items, and there's a total of \$251,698;</p> <p>19 do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. That sort of links up with your</p> <p>22 recollection before about what you testified</p> <p>23 earlier. Does that seem like an accurate</p> <p>24 breakdown of the expenses of your office for</p> <p>25 2012?</p>

20 (Pages 74 - 77)

Page 78

1 A. Yes.

2 Q. Where is the ACS contract shown

3 here; if you can tell?

4 A. That is not here.

5 Q. Is it budgeted separately?

6 A. Yes.

7 Q. How does that work?

8 A. It's called the equipment fund --

9 no. It's not called equipment fund. It's

10 called the "set aside fund".

11 Q. That's a new term for me. So how

12 does that work?

13 A. \$4 out of the 14 goes for

14 contracts.

15 Q. Now, when you say "of the 14", what

16 is "the 14"?

17 A. The fees, the fee charges.

18 Q. And that's \$14 per page charge to

19 record a document? Is it per page or per

20 document?

21 A. No. No. Our fees are \$28 for two

22 pages. \$14 comes to us.

23 Q. And \$14 goes to the Ohio Trust

24 Fund?

25 A. Right.

Page 79

1 Q. And from the \$14 that is paid to

2 the Recorder, \$4 is used for contracts?

3 A. Yes.

4 Q. Now I understand. Thank you.

5 Ms. Gingerich, can you tell me

6 roughly the amount of recording fees that

7 Geauga County took in in 2011, just ballpark?

8 A. No. I would have to see.

9 Q. Is it over a million or under a

10 million?

11 A. Under.

12 - - - - -

13 (Thereupon, Deposition Exhibit 18, A

14 Document Entitled "Burton Blog", was

15 marked for purposes of

16 identification.)

17 - - - - -

18 Q. I'm handing you what's been marked

19 Exhibit Number 18, Ms. Gingerich. Can you

20 identify this document?

21 A. Burton Blog.

22 Q. What is the Burton Blog?

23 A. It's a blog that someone writes in

24 Burton.

25 Q. And it looks like the individual

Page 80

1 took your newsletter and put it into the blog,

2 essentially?

3 A. Correct.

4 Q. If you turn to the second page,

5 this is what I'm trying to get at, the number.

6 It says at the top of the second page that the

7 Recorder's Office brought in \$833,000 in fees.

8 Does that help sort of jog your memory about

9 what the amount of recording fees you might

10 have taken in in 2010? Actually, this is as of

11 2010.

12 A. Yeah. 2010.

13 Q. Does that sound about right?

14 A. Yes.

15 Q. And do you know how it's changed

16 between 2010 and 2011?

17 A. It's probably similar.

18 Q. Okay. And over time, how has that

19 changed going back in time over the last few

20 years? Is that number increasing, decreasing

21 or staying about the same?

22 A. I really don't -- I can't -- I

23 don't remember.

24 Q. We could probably tell from the ACS

25 system pretty accurately if we wanted to find

Page 81

1 out?

2 A. Oh, absolutely.

3 Q. To the penny probably? Yes?

4 A. Yes.

5 - - - - -

6 (Thereupon, Deposition Exhibit 19, A

7 Geauga County Website Document, was

8 marked for purposes of

9 identification.)

10 - - - - -

11 Q. Handing you what's been marked as

12 Exhibit Number 19, Ms. Gingerich. Have you

13 seen this document before?

14 A. No.

15 Q. Again, this is something I got off

16 the Geauga County website. And it talks about

17 various receipts, expenditures and balances and

18 so forth. If you look right on the first page,

19 it's talking about receipts at the very top of

20 the first page, and it's got recording fees,

21 line 13 B-A. Do you see that, recorder fees?

22 And it's sort of got them for 2009, 2010, 2011

23 and "estimated"; do you see that?

24 A. Yes.

25 Q. And that sort of links up with the

<p style="text-align: right;">Page 82</p> <p>1 \$800,000, in the sense that you said half of it</p> <p>2 goes to the Ohio Trust Fund?</p> <p>3 A. Yes.</p> <p>4 Q. And these numbers seem to be</p> <p>5 declining. You've got \$373,000 for '09, and</p> <p>6 then for 2012 estimated it's all the way down</p> <p>7 to \$309,000; do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. So it seems to be trending down by</p> <p>10 about 20, 25 percent; would you agree?</p> <p>11 A. That's what it says, yes.</p> <p>12 - - - - -</p> <p>13 (Thereupon, Deposition Exhibit 20, A</p> <p>14 Document Bates Stamped GCR-00247 and</p> <p>15 GCR-002479, was marked for purposes</p> <p>16 of identification.)</p> <p>17 - - - - -</p> <p>18 Q. I'm handing you what's been marked</p> <p>19 as Exhibit 20. It's Bates number GCR-2478,</p> <p>20 2479. Can you identify this document for me?</p> <p>21 A. It's a chart of revenue from 2004</p> <p>22 to present.</p> <p>23 Q. And I assume that other than</p> <p>24 recording fees there are no other revenues that</p> <p>25 your office takes in, correct?</p>	<p style="text-align: right;">Page 84</p> <p>1 for me?</p> <p>2 A. Comparisons of noncompliant fees.</p> <p>3 Q. Okay. And those are the documents</p> <p>4 that don't meet the recording requirements set</p> <p>5 forth in the Ohio Code?</p> <p>6 A. Correct.</p> <p>7 Q. And this shows the amount of fees</p> <p>8 that your office was able to take in as a</p> <p>9 result of those noncompliant documents?</p> <p>10 A. Correct.</p> <p>11 Q. Did you generate this from the ACS</p> <p>12 system?</p> <p>13 A. No.</p> <p>14 Q. How did you generate this?</p> <p>15 A. Well, partially.</p> <p>16 Q. Okay.</p> <p>17 A. Well, yeah. It does come from ACS.</p> <p>18 But this report, I just wrote it into a</p> <p>19 spreadsheet.</p> <p>20 Q. So you developed this spreadsheet,</p> <p>21 and you used information from ACS to populate</p> <p>22 it?</p> <p>23 A. Yes.</p> <p>24 - - - - -</p> <p>25 (Thereupon, Deposition Exhibit 22, A</p>
<p style="text-align: right;">Page 83</p> <p>1 A. Copies.</p> <p>2 Q. Okay. So you make revenue through</p> <p>3 copies.</p> <p>4 A. Yes.</p> <p>5 Q. And if we look at this chart, it</p> <p>6 shows that your office made revenue in 2004 of</p> <p>7 \$1.45 million. And through 2009, it was all</p> <p>8 the way down to \$500,000; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. So the revenue has gone down by</p> <p>11 two-thirds?</p> <p>12 A. Correct.</p> <p>13 Q. What do you attribute that decline</p> <p>14 to?</p> <p>15 A. The housing market.</p> <p>16 Q. I agree.</p> <p>17 - - - - -</p> <p>18 (Thereupon, Deposition Exhibit 21, A</p> <p>19 Document Bates Stamped GCR-000938</p> <p>20 Through GCR-000941, was marked for</p> <p>21 purposes of identification.)</p> <p>22 - - - - -</p> <p>23 Q. I'm handing you what's been marked</p> <p>24 as Exhibit 21. It's Bates numbered GCR-938</p> <p>25 through 941. Can you identify this document</p>	<p style="text-align: right;">Page 85</p> <p>1 Document Bates Stamped GCR-000876</p> <p>2 Through GCR-000894, was marked for</p> <p>3 purposes of identification.)</p> <p>4 - - - - -</p> <p>5 Q. I'm handing you what's been marked</p> <p>6 as Exhibit 22. It's GCR-876 through 894. Same</p> <p>7 question; what does this report show?</p> <p>8 A. Monthly totals.</p> <p>9 Q. And monthly totals of what?</p> <p>10 A. Their revenue from the office.</p> <p>11 Q. What are the various columns across</p> <p>12 the top? Like, "01/OHT", what is that?</p> <p>13 A. Ohio Housing Trust.</p> <p>14 Q. So is that the amount of revenue</p> <p>15 that would go to the Ohio Housing Trust?</p> <p>16 A. Yes.</p> <p>17 Q. And then what's "01/CRM"?</p> <p>18 A. That's the one -- the contracts.</p> <p>19 Q. The equipment contracts?</p> <p>20 A. Well --</p> <p>21 Q. That's the amount of money that</p> <p>22 would go to the equipment fund?</p> <p>23 A. Well, yeah.</p> <p>24 Q. The contract fund, or --</p> <p>25 A. Yeah.</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 Q. Now, does that money that you get 2 for the contract fund go into the county 3 general revenue to be used for any contracts in 4 the county -- 5 A. No. 6 Q. -- or does it stay with your 7 office? 8 A. Yes. 9 Q. It stays with your office? 10 A. Yes. 11 Q. And what's "13 B-A"; is that you? 12 A. I'm not sure. 13 Q. It looks like it would probably 14 have to be, since half went to the Ohio Trust 15 Fund, and then it looks like the other half 16 probably went to the county, correct? 17 A. Yes. It's ours. 18 Q. It's yours; it's Geauga County's? 19 A. Yes. 20 Q. Okay. And is this something that 21 was generated by the ACS system? 22 A. Yes. Well, again, yes and no. The 23 figure is, but we did the spreadsheet. 24 Q. And what was the purpose of 25 generating the spreadsheet?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Correct. 2 Q. And how does he or she get the 3 information to conduct this audit? 4 A. I don't know. 5 Q. Who in your office would know? 6 A. Oh, this is the daily amounts that 7 come in. 8 Q. So this is a daily report -- 9 A. Yeah. 10 Q. -- of amounts taken in each day? 11 A. Right. 12 Q. Okay. But it's generated by the 13 Auditor? 14 A. By the Auditor, yes. 15 Q. Okay. And this doesn't look like 16 it reflects the copying charges, just the 17 recording fees, correct? 18 A. Yes. 19 - - - - - 20 (Thereupon, Deposition Exhibit 24, A 21 Document Bates Stamped GCR-000947 22 Through GCR-000973, was marked for 23 purposes of identification.) 24 - - - - - 25 Q. I'm handing you what the court</p>
<p style="text-align: right;">Page 87</p> <p>1 A. Just to know. 2 - - - - - 3 (Thereupon, Deposition Exhibit 23, A 4 Document Bates Stamped GCR-001156 5 Through GCR-001161, was marked for 6 purposes of identification.) 7 - - - - - 8 Q. I'm handing you what's been marked 9 Exhibit 23. It's GCR-1156 to 1161. Could you 10 identify this report? 11 A. This is a report generated -- this 12 is a report about the accounts. 13 Q. Okay. 14 A. Records. 15 Q. And the account here is that 13 B-A 16 that we just saw in the last exhibit. Do you 17 see at the very top, account 13 B-A? So this 18 is the money for Geauga County? 19 A. Right. 20 Q. And what date did you run this 21 report; if you can tell? 22 A. This is not my report. This comes 23 from the Auditor. 24 Q. Okay. So there's an Auditor for 25 Geauga County?</p>	<p style="text-align: right;">Page 89</p> <p>1 reporter has marked Exhibit 24. It's GCR-947 2 to GCR-973. Can you tell me what this document 3 is? 4 A. This is a report from January 2010 5 through December 2010. 6 Q. And what does the report show? 7 A. It shows the amount of documents. 8 Q. Amount of documents recorded? 9 A. Recorded. 10 Q. Can you tell me where assignments 11 are reflected in this; if at all? 12 A. Under "mortgages", there's 13 "assignments". 14 Q. Which page? 15 A. Second page. 16 Q. Okay. 17 A. 948. And down below that is "lease 18 assignments". 19 Q. Okay. So as to mortgages, there 20 were 5,630 mortgages, mortgage type documents, 21 of which 478 were assignments in 2010? 22 A. Yes. 23 Q. It looks like the fees for 24 recording those assignments was approximately 25 \$18,000?</p>

23 (Pages 86 - 89)



<p style="text-align: right;">Page 90</p> <p>1 A. Yes.</p> <p>2 - - - - -</p> <p>3 (Thereupon, Deposition Exhibit 25, A</p> <p>4 Document Bates Stamped GCR-000915</p> <p>5 Through GCR-000932, was marked for</p> <p>6 purposes of identification.)</p> <p>7 - - - - -</p> <p>8 Q. I'm handing you what's been marked</p> <p>9 as Exhibit 25. It's GCR-915 through 932. Is</p> <p>10 this a similar report for a different period?</p> <p>11 A. Correct. Yes.</p> <p>12 Q. And did you tell me how this was</p> <p>13 generated?</p> <p>14 A. Through ACS.</p> <p>15 Q. So you can hit a button on ACS and</p> <p>16 print out this kind of report?</p> <p>17 A. Correct.</p> <p>18 Q. Do you know where they're located,</p> <p>19 ACS?</p> <p>20 A. Texas.</p> <p>21 Q. Do they do onsite visits at your</p> <p>22 office from time to time?</p> <p>23 A. Yes.</p> <p>24 Q. Support-type visits?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 92</p> <p>1 A. Distribution totals.</p> <p>2 Q. What does that mean?</p> <p>3 A. It tells where the fees go.</p> <p>4 Q. When you say where they go, do you</p> <p>5 mean how much fee was charged for each type of</p> <p>6 document?</p> <p>7 A. No.</p> <p>8 Q. Tell me what you mean by "where the</p> <p>9 fees go"?</p> <p>10 A. Well, if you look in the last copy,</p> <p>11 the fees went to copies, I mean, the last</p> <p>12 column. The second to last, they went to CRM.</p> <p>13 Q. What's the CRM? I'm sorry.</p> <p>14 A. That's the one we talked about with</p> <p>15 the contracts.</p> <p>16 Q. Okay.</p> <p>17 A. It's a breakdown.</p> <p>18 Q. And do you generate this report on</p> <p>19 a regular basis?</p> <p>20 A. Yes.</p> <p>21 Q. And what do you do with the report</p> <p>22 after you generate it?</p> <p>23 A. Sometimes I save it. Sometimes I</p> <p>24 don't.</p> <p>25 Q. Is it requested by another agency</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Who's your point of contact there?</p> <p>2 A. Dave Weaver.</p> <p>3 Q. Are they in Dallas? Do you know?</p> <p>4 Are they located in Dallas, or do you know</p> <p>5 where in Texas?</p> <p>6 A. No. I don't know -- I don't</p> <p>7 remember the name of it. They just moved here.</p> <p>8 Q. To Ohio?</p> <p>9 A. No. To another location. Another</p> <p>10 city. You're asking me for a city. I --</p> <p>11 Q. And on this document, Exhibit 25,</p> <p>12 we have the same information about mortgages on</p> <p>13 the first page, looks like, on the right-hand</p> <p>14 side, "ASSN 613"?</p> <p>15 A. Yes.</p> <p>16 - - - - -</p> <p>17 (Thereupon, Deposition Exhibit 26, A</p> <p>18 Document Bates Stamped GCR-000942</p> <p>19 Through GCR-000945, was marked for</p> <p>20 purposes of identification.)</p> <p>21 - - - - -</p> <p>22 Q. The court reporter has handed you</p> <p>23 what's been marked Exhibit 26, and it's Bates</p> <p>24 numbered GCR-942 through 945. Can you identify</p> <p>25 this document, Ms. Gingerich?</p>	<p style="text-align: right;">Page 93</p> <p>1 of the county?</p> <p>2 A. No.</p> <p>3 Q. You just do it for informational</p> <p>4 purposes?</p> <p>5 A. Correct.</p> <p>6 Q. To see where the money is going?</p> <p>7 A. Correct.</p> <p>8 Q. Ms. Gingerich, what is the Ohio</p> <p>9 Records Association?</p> <p>10 A. It's the association that the Ohio</p> <p>11 Records belong to.</p> <p>12 Q. And is Geauga County a member?</p> <p>13 A. Yes.</p> <p>14 Q. What does the association do?</p> <p>15 A. Many things. They provide</p> <p>16 continuing education. They work on legislative</p> <p>17 issues, such as standardization.</p> <p>18 Q. Anything else?</p> <p>19 A. That's the main thrust.</p> <p>20 Q. And how often does the ORA meet?</p> <p>21 A. We're down to three times a year.</p> <p>22 We have spring, CE.</p> <p>23 Q. And it sounds like you met more</p> <p>24 frequently in the past?</p> <p>25 A. Yes.</p>

24 (Pages 90 - 93)

Page 94

1 Q. And how many times did you used to  
2 meet?  
3 A. Four.  
4 Q. Budget issues?  
5 A. Yes.  
6 Q. How does the ORA communicate with  
7 its members?  
8 A. ListServe.  
9 Q. That's what we talked about  
10 earlier?  
11 A. Yes.  
12 Q. So anyone can post a question on  
13 ListServe for any other Recorder to see and  
14 comment on and respond to?  
15 A. Yes.  
16 Q. And you use that ListServe when you  
17 have questions?  
18 A. Yes.  
19 Q. And you've responded to inquiries  
20 from other counties?  
21 A. Yes.  
22 Q. Have you ever posted an issue about  
23 this case on the ListServe; any questions or  
24 comments or invited feedback about this case on  
25 the ListServe?

Page 95

1 A. On the ListServe, no.  
2 Q. Why is that?  
3 A. There was nothing to ask. There  
4 was no reason to.  
5 Q. You didn't want to alert other  
6 members to the case?  
7 A. No. They know. They were alerted.  
8 Q. We'll get to that in a minute.  
9 But you didn't put anything on  
10 ListServe about the case?  
11 A. No. Not that I recall.  
12 Q. Were you discouraged from putting  
13 anything on ListServe about the case by anyone?  
14 A. I don't remember.  
15 Q. Do you hold any positions within  
16 the ORA?  
17 A. I'm on committees.  
18 Q. Tell me about that.  
19 A. I'm on the Q&A, the question and  
20 answer moderator, and Legislative Committee.  
21 Q. How long have you been on the  
22 Legislative Committee?  
23 A. Four months.  
24 Q. What does the committee do?  
25 A. Talk about legislation.

Page 96

1 Q. Okay. Does it just talk among  
2 itself about legislation?  
3 A. Yes.  
4 Q. What kinds of legislation? What  
5 kinds of topics have you talked about in the  
6 committee since you've been on it?  
7 A. Well, there's the clean-up bill,  
8 which is to remove things that aren't relevant  
9 anymore, you know, in the code.  
10 Q. So let me just interrupt you there.  
11 There's an effort under way to amend the code  
12 concerning recording practices?  
13 A. Yes.  
14 Q. And is there some bill introduced  
15 in the legislature right now about that?  
16 A. No.  
17 Q. Not yet. Are you going -- is your  
18 association going to present a bill?  
19 A. Yes.  
20 Q. When do you anticipate doing that?  
21 A. This year.  
22 Q. This year. Will that proposed  
23 legislation have anything to do with recording  
24 of assignments?  
25 A. No.

Page 97

1 Q. What other topics have you talked  
2 about in the committee, legislative topics?  
3 A. Veterans issues.  
4 Q. Anything else you can recall?  
5 A. It's not coming to me.  
6 Q. That's okay. Does the committee  
7 record in written form the results of its  
8 meetings?  
9 A. Minutes? Yes.  
10 Q. Okay. So that would reflect what  
11 you discussed?  
12 A. Yes.  
13 Q. We talked about the clean-up bill.  
14 Has the Legislative Committee discussed any  
15 proposals regarding recording of assignments of  
16 mortgages?  
17 A. No.  
18 Q. Not at all?  
19 A. No.  
20 Q. Why is that?  
21 A. There was no reason to.  
22 Q. Why is there no reason to?  
23 A. I can't answer that. I don't know.  
24 Q. Other than the meeting minutes, is  
25 there any other way the committee communicates

<p style="text-align: right;">Page 98</p> <p>1 its work to its members of the ORA?</p> <p>2 A. Well, we talk.</p> <p>3 Q. Among all the Recorders. In other</p> <p>4 words, when the committee meets to discuss an</p> <p>5 issue, other than the meeting minutes, do you</p> <p>6 also communicate your activities to the members</p> <p>7 in another way?</p> <p>8 A. At conference.</p> <p>9 Q. At the three times a year</p> <p>10 conference?</p> <p>11 A. Correct.</p> <p>12 Q. You also produced something called</p> <p>13 a "legislation update"?</p> <p>14 A. "Book and page".</p> <p>15 Q. What do you mean by that?</p> <p>16 A. It's called the "book and page".</p> <p>17 Q. It's called the "book and page"?</p> <p>18 That's what you call it?</p> <p>19 A. Yes.</p> <p>20 Q. Let's put that in the record, so we</p> <p>21 can make it clear what we're talking about.</p> <p>22 - - - - -</p> <p>23 (Thereupon, Deposition Exhibit 27, A</p> <p>24 Document Bates Stamped GCR-000041,</p> <p>25 GCR-000044 and GCR-000046, was</p>	<p style="text-align: right;">Page 100</p> <p>1 interest to Geauga County?</p> <p>2 A. Yes.</p> <p>3 Q. Tell me about that.</p> <p>4 A. Ohio Housing Trust Fund.</p> <p>5 Q. Tell me what the issue is there.</p> <p>6 A. We tried to get some of that to</p> <p>7 come back to the county.</p> <p>8 Q. And was it successful?</p> <p>9 A. No.</p> <p>10 Q. That's a general fund maintained by</p> <p>11 the governor?</p> <p>12 A. The Ohio Housing Trust Fund.</p> <p>13 Q. Maintains and administrates those</p> <p>14 funds as it sees fit?</p> <p>15 A. Yes.</p> <p>16 Q. And as we talked about, half of</p> <p>17 your recording income goes to this fund?</p> <p>18 A. Yes.</p> <p>19 Q. And nothing comes back to Geauga</p> <p>20 County?</p> <p>21 A. Yes.</p> <p>22 Q. How did you try to get that</p> <p>23 changed?</p> <p>24 A. Legislatively.</p> <p>25 Q. Who did you talk to?</p>
<p style="text-align: right;">Page 99</p> <p>1 marked for purposes of</p> <p>2 identification.)</p> <p>3 - - - - -</p> <p>4 Q. I'm handing you what's been marked</p> <p>5 Exhibit Number 27. It's Bates numbered GCR-41</p> <p>6 to 46. Do you see this document?</p> <p>7 A. I see it.</p> <p>8 Q. Is this what we were just</p> <p>9 discussing?</p> <p>10 A. Yes.</p> <p>11 Q. And how often does the Legislative</p> <p>12 Committee send out these legislation updates?</p> <p>13 A. I don't know.</p> <p>14 Q. Is it periodic rather than regular?</p> <p>15 A. Yes.</p> <p>16 Q. Do you ever send them out as a</p> <p>17 member of the committee?</p> <p>18 A. No.</p> <p>19 Q. The Chair of the committee would</p> <p>20 send them out?</p> <p>21 A. Yes.</p> <p>22 Q. Now, do you ever -- have you ever,</p> <p>23 in your individual capacity as the Recorder of</p> <p>24 Geauga County, have you ever lobbied or talked</p> <p>25 to representatives about legislation of</p>	<p style="text-align: right;">Page 101</p> <p>1 A. Senator Grendel. Everyone I saw.</p> <p>2 I mean --</p> <p>3 Q. Were any bills ever introduced on</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. There was a bill introduced?</p> <p>7 A. Yes.</p> <p>8 Q. It just didn't pass?</p> <p>9 A. Yes. It didn't pass.</p> <p>10 - - - - -</p> <p>11 (Thereupon, Deposition Exhibit 28, A</p> <p>12 Document Bates Stamped GCR-001284,</p> <p>13 was marked for purposes of</p> <p>14 identification.)</p> <p>15 - - - - -</p> <p>16 Q. Okay. I'm handing you what's been</p> <p>17 marked as Exhibit 28. For the record, it's</p> <p>18 Bates number GCR-1284. Can you identify this</p> <p>19 document?</p> <p>20 A. It's a memo to State Rep Marlene</p> <p>21 Anielski.</p> <p>22 Q. And is this something you wrote?</p> <p>23 A. Yes.</p> <p>24 Q. Is this another example of you in</p> <p>25 your individual capacity as Geauga County</p>

26 (Pages 98 - 101)

Page 102

1 Recorder lobbying for a specific issue?  
 2 A. Yes.  
 3 Q. And what's the issue with the  
 4 defunding of county government involve?  
 5 A. The county governments were  
 6 defunded in the beginning of 2010 with the new  
 7 administration.  
 8 Q. Tell me what that means. I'm not  
 9 from Ohio, so I don't know what the defunding  
 10 of the county government involved.  
 11 A. I can't give you specifics. I just  
 12 know that the moneys were cut.  
 13 Q. So the amount of appropriations  
 14 that were given to the Ohio counties were cut  
 15 by the State?  
 16 A. Yes.  
 17 Q. And then this memo goes on to talk  
 18 about the Ohio Trust Fund issue that we just  
 19 discussed?  
 20 A. Yes.  
 21 Q. This was part of your -- part of  
 22 your pleas to try to get some of that money  
 23 back?  
 24 A. Yes.  
 25 Q. Has that defunding placed further

Page 103

1 pressure on individual county governments  
 2 throughout Ohio?  
 3 A. I -- I don't really know. I can't  
 4 speak for all the counties.  
 5 Q. Has it put pressure on your county,  
 6 budget pressures?  
 7 A. No.  
 8 Q. How much -- was the budget for the  
 9 amount of appropriations in Geauga County cut  
 10 by the State in 2010?  
 11 A. Yes.  
 12 Q. Now, Ms. Gingerich, I assume as  
 13 part of your job you have give speeches to the  
 14 public?  
 15 A. Yes.  
 16 Q. And various groups?  
 17 A. Yes.  
 18 Q. And you talk about issues of  
 19 concern to citizens in Geauga County?  
 20 A. Yes.  
 21 - - - - -  
 22 (Thereupon, Deposition Exhibit 29, A  
 23 Document Bates Stamped GCR-002427  
 24 Through GCR-002431, was marked for  
 25 purposes of identification.)

Page 104

1 - - - - -  
 2 Q. I'm going to hand you a document I  
 3 think is a speech, but you need to tell me.  
 4 I'm handing you what's been marked Exhibit  
 5 Number 29. It's GCR-2427 to 2431. This is a  
 6 copy of a speech you gave?  
 7 A. No.  
 8 Q. What is this?  
 9 A. These are my notes.  
 10 Q. Of what?  
 11 A. Of a speech I was going to give.  
 12 Q. But you never gave it?  
 13 A. I did not give everything in here.  
 14 It was too much.  
 15 Q. Understood. Where was the  
 16 presentation going to be?  
 17 A. Tea Party.  
 18 Q. Tea Party. And was that a Tea  
 19 Party meeting in your county or somewhere else?  
 20 A. In our county.  
 21 Q. And what was the approximate date?  
 22 A. Mid-March.  
 23 Q. Of 2012?  
 24 A. Yes.  
 25 Q. Turn over to page 2429. At the top

Page 105

1 of the first full paragraph it says; "Bottom  
 2 line is that the Recorder and the other elected  
 3 positions are there to give their residents" --  
 4 A. I'm sorry. This is not -- this is  
 5 not Tea Party.  
 6 Q. Okay. What is it?  
 7 A. This was something I was going to  
 8 give and didn't. And I don't even know -- the  
 9 reason I say that is because it says "I will  
 10 soon begin e-recording", and that was --  
 11 Q. Okay.  
 12 A. This --  
 13 Q. So this is probably earlier than  
 14 2012?  
 15 A. Yes.  
 16 Q. And this was not given either --  
 17 A. No. Anywhere.  
 18 Q. But you did type it up?  
 19 A. I did type it up.  
 20 Q. And it reflects your views?  
 21 A. Yes.  
 22 Q. Okay. That's fine, too. Let's go  
 23 over to page 2429. And the first full  
 24 paragraph there says; "Bottom line is that the  
 25 Recorder and other elected positions are there

Page 106

1 to give their residents their Constitutional  
2 freedom to choose." What do you mean by that?  
3 A. To elect.  
4 Q. To elect whom?  
5 A. Whoever they want.  
6 Q. And that's important because it's a  
7 Constitutional principle, correct?  
8 A. Correct.  
9 Q. And the officials who elect  
10 officials in Geauga County have the right to  
11 have those citizens carry out their wishes?  
12 A. Yes.  
13 Q. And they should not have officials  
14 in other counties carrying out their wishes,  
15 correct, of Ohio? In other words, they elect  
16 officials in Geauga County to carry out their  
17 wishes, correct?  
18 A. The county elects officials.  
19 Q. Right. And so the citizens of  
20 Geauga County should not be controlled in any  
21 way by citizens of other Ohio counties,  
22 correct?  
23 A. Correct.  
24 Q. And vice-versa; Geauga County  
25 should not be allowed to control the wishes of

Page 107

1 the citizens of other Ohio counties?  
2 A. Correct.  
3 Q. When you drop down to the next  
4 paragraph, it says; "The Recorder does not  
5 always agree with other officials on how land  
6 transactions should be handled." What do you  
7 mean by that?  
8 A. Putting the records online.  
9 Q. Is that specifically what you were  
10 talking about there?  
11 A. Yes.  
12 Q. So explain to me what was going on  
13 with that.  
14 A. Other people might want to put  
15 records online. I do not.  
16 Q. And why do you not want to put  
17 records online?  
18 A. Privacy issues. Social Security.  
19 Q. And who in the county wanted to put  
20 records online?  
21 A. Well, it was -- well, in the  
22 campaign it would have been my opponent, but --  
23 this is hypothetical. It would be something  
24 that they might want to do.  
25 Q. I understand. But your point was

Page 108

1 as the elected official, you would want to have  
2 control over decisions about land recording in  
3 Geauga County?  
4 A. Yes.  
5 Q. And by the same token elected  
6 officials in other counties can't control those  
7 issues?  
8 A. Not about land recording. About  
9 what I do with it about putting it online.  
10 Q. Well, this says "land transactions  
11 should be handled."  
12 A. Meaning, putting it online.  
13 Q. Even as to putting it online, you  
14 wouldn't want officials in other counties  
15 telling you what to do, would you?  
16 A. Correct.  
17 Q. And you wouldn't propose to tell  
18 them what to do, would you?  
19 A. No.  
20 Q. If you flip over to the last page,  
21 2431, you say; "I can only speak for Geauga  
22 County", correct?  
23 A. Yes.  
24 Q. Which is what we just talked about.  
25 And then you go on to say that; "Just because

Page 109

1 Geauga County voters wanted different things  
2 than Cuyahoga County voters is not a reason to  
3 throw out the baby with the bath water." What  
4 did that involve?  
5 A. That refers to the movement to  
6 combine offices in the county.  
7 Q. So in some counties some Recorder  
8 offices were eliminated?  
9 A. Yes. They did a whole new system,  
10 yes.  
11 Q. And I assume Cuyahoga County was  
12 one of those?  
13 A. Yes.  
14 Q. And instead of it being an elected  
15 official, it was an appointed official  
16 probably?  
17 A. Yes.  
18 Q. Appointed by the County  
19 Commissioners?  
20 A. No.  
21 Q. Who would appoint the person, or  
22 would it be taken over by a different official  
23 in that county?  
24 A. Ask one question.  
25 Q. Sorry. I'll try again. In a

<p style="text-align: right;">Page 110</p> <p>1 county where the Recorder's Office is done away 2 with, who took over the function of the 3 Recorder? 4 A. Chief Executive. 5 Q. And you're opposed to that? 6 A. Yes. 7 Q. Another example of just different 8 counties having different views about how to do 9 things? 10 A. Yes. 11 - - - - - 12 (Thereupon, Deposition Exhibit 30, A 13 Document Bates Stamped GCR-002244 14 Through GCR-002245, was marked for 15 purposes of identification.) 16 - - - - - 17 Q. I'm handing you what's been marked 18 Exhibit Number 30. It's Bates numbered 19 GCR-2244 to 2245. Could you identify this 20 document for me? 21 A. This is more about why our Geauga 22 County government is a good government as is. 23 Q. And not wanting to do away with the 24 Recorder's Office? 25 A. Right.</p>	<p style="text-align: right;">Page 112</p> <p>1 MR. YENOUSKAS: Off the record. 2 (Thereupon, a discussion was had 3 off the record.) 4 MR. YENOUSKAS: Back on the record. 5 Q. You say in paragraph J that; "The 6 Commissioners have such tight reins on our 7 budget, we cannot hire people to work for us 8 who do not work for us." What do you mean by 9 that? 10 A. I don't know. 11 Q. What do you mean by "the 12 Commissioners have such tight reins on our 13 budget"? 14 A. We can't do anything without 15 approval. 16 Q. So, in other words, that budget 17 that you're given at the start of the year is 18 the funds you have to work with? 19 A. Right. 20 Q. And only those funds? 21 A. Right. 22 Q. Do you know what you meant by "we 23 can't hire people to work for us who do not 24 work for us"? 25 A. Oh, I do know. It goes to Cuyahoga</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. And you drafted this? 2 A. Yes. 3 Q. Would it have been the same time 4 frame as Exhibit 29 or a different time? 5 A. Probably. 6 Q. Did you ever give this as a speech? 7 A. No. 8 Q. Paragraph J, you talk about how 9 Cuyahoga County and Summit County did away with 10 Recorders, and you said "Summit has saved 11 nothing." How do you know Summit saved no 12 money from doing that? 13 A. Someone made the statement. 14 Q. Do you remember who that was? 15 A. No, I do not. 16 Q. You also say in that same 17 paragraph; "In Geauga, everything is 18 transparent." What do you mean by that? 19 A. Well, people know what we do. 20 We're right there. Obviously, it -- it's not 21 corrupt. 22 Q. Is there a problem in other 23 counties with transparency? 24 A. Well, there must have been. 25 Q. Save that for another day?</p>	<p style="text-align: right;">Page 113</p> <p>1 County. 2 Q. Okay. What does that mean? 3 A. There was a lot of things going on 4 there, which is why they changed their 5 government. 6 Q. All right. Let's talk about MERS 7 now. Can you tell me what MERS is? 8 A. Mortgage Electronic Registration 9 Systems. 10 Q. And what does it do? 11 A. It takes the mortgages, the 12 assignments, and assigns them from one bank to 13 another, to another, to another. 14 Q. How does it do that? 15 A. I don't know. 16 Q. When did you first hear about MERS? 17 A. About 2009. 18 Q. How did you first hear about it? 19 A. At a Recorders meeting. 20 Q. Ohio Recorders meeting? 21 A. Correct. 22 Q. And who was informing you about 23 MERS at that time? 24 A. I don't remember. 25 Q. What were the discussions about</p>

Page 114	Page 116
<p>1 MERS?</p> <p>2 A. That the chain of title was</p> <p>3 clouded.</p> <p>4 Q. So this was a comment by some other</p> <p>5 Recorder, and you can't remember who it was?</p> <p>6 A. No.</p> <p>7 Q. Did you do anything in reaction to</p> <p>8 that meeting?</p> <p>9 A. No.</p> <p>10 Q. Do you know who the members of MERS</p> <p>11 are?</p> <p>12 A. No.</p> <p>13 Q. Or how many there are?</p> <p>14 A. No.</p> <p>15 Q. Do you know when MERS began</p> <p>16 operations?</p> <p>17 A. In the mid 1990s.</p> <p>18 Q. Do you know anything else about</p> <p>19 MERS, other than it assigns mortgages from one</p> <p>20 bank to another?</p> <p>21 A. Yes.</p> <p>22 Q. What else do you know about MERS?</p> <p>23 A. They do it within their own system.</p> <p>24 It's not open to the public.</p> <p>25 Q. Have you ever accessed the MERS</p>	<p>1 - - - - -</p> <p>2 (Thereupon, Deposition Exhibit 31, A</p> <p>3 Mortgage, was marked for purposes of</p> <p>4 identification.)</p> <p>5 - - - - -</p> <p>6 Q. Ms. Gingerich, I'm handing you</p> <p>7 what's been marked as Exhibit Number 32. Can</p> <p>8 you identify this document?</p> <p>9 A. It is a mortgage recorded in 2005.</p> <p>10 Q. Okay. And it was recorded in</p> <p>11 Geauga County?</p> <p>12 A. Yes.</p> <p>13 Q. And I assume Mary Margaret McBride</p> <p>14 is one of your predecessors?</p> <p>15 A. Yes.</p> <p>16 Q. Where is she now?</p> <p>17 A. Virginia.</p> <p>18 Q. I'm sorry?</p> <p>19 A. Virginia.</p> <p>20 Q. Do you know where in Virginia?</p> <p>21 A. I think Roanoke.</p> <p>22 Q. What is she doing there?</p> <p>23 A. She works for the Veterans</p> <p>24 Administration.</p> <p>25 Q. And it appears this document was</p>
Page 115	Page 117
<p>1 website?</p> <p>2 A. No.</p> <p>3 Q. Have you ever gone to MERS?</p> <p>4 A. No.</p> <p>5 Q. Have you ever talked to any</p> <p>6 officials in MERS?</p> <p>7 A. No.</p> <p>8 Q. So the information you're getting</p> <p>9 about MERS is secondhand information?</p> <p>10 A. Yes.</p> <p>11 Q. Who are some of the sources of your</p> <p>12 information about MERS?</p> <p>13 A. Other Recorders. Robert Holman.</p> <p>14 You have to --</p> <p>15 Q. Have you met with Chris Peterson?</p> <p>16 A. No.</p> <p>17 Q. Have you ever talked to him on the</p> <p>18 phone?</p> <p>19 A. No.</p> <p>20 Q. Do you know who he is?</p> <p>21 A. Yes.</p> <p>22 Q. Who is he?</p> <p>23 A. He wrote some things about MERS.</p> <p>24 Q. Have you read any of his articles?</p> <p>25 A. I have not.</p>	<p>1 actually recorded in the land records at Geauga</p> <p>2 County? It has a book and page number stamped</p> <p>3 on it?</p> <p>4 A. Yes.</p> <p>5 Q. So this was accepted for recording?</p> <p>6 A. Yes.</p> <p>7 Q. And look at page 1, right in the</p> <p>8 middle. Do you see it references MERS there?</p> <p>9 A. Yes.</p> <p>10 Q. And have you seen that on other</p> <p>11 mortgages that are recorded in Geauga County?</p> <p>12 A. Yes.</p> <p>13 Q. So there's no hiding the fact that</p> <p>14 MERS is involved in this transaction, is there?</p> <p>15 A. No.</p> <p>16 Q. And there's a sentence there that</p> <p>17 says; "MERS is the mortgagee under the security</p> <p>18 instrument." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you agree that it's the</p> <p>21 mortgagee under the security instrument?</p> <p>22 A. I don't know. I can't -- I have</p> <p>23 nothing to base it on.</p> <p>24 Q. Do you believe that's false in any</p> <p>25 way?</p>

30 (Pages 114 - 117)

<p style="text-align: right;">Page 118</p> <p>1 A. I don't know.</p> <p>2 Q. Do you know how long Geauga County</p> <p>3 has been accepting mortgages such as this for</p> <p>4 recording?</p> <p>5 A. No.</p> <p>6 Q. Do you have any reason to dispute</p> <p>7 that it would have been accepting them since</p> <p>8 1997 when MERS started up?</p> <p>9 A. Would you repeat that?</p> <p>10 Q. Do you have any reason to dispute</p> <p>11 that it would have been recording these since</p> <p>12 MERS started operations in the 1990s?</p> <p>13 A. Do I have any reason to dispute it?</p> <p>14 No.</p> <p>15 Q. Has Geauga County ever communicated</p> <p>16 to MERS in any way that it believed MERS is</p> <p>17 adversely impacting the land records in Geauga</p> <p>18 County?</p> <p>19 A. Not that I know of.</p> <p>20 Q. Has Geauga County ever complained</p> <p>21 to a lender the same fact?</p> <p>22 A. Not that I know of.</p> <p>23 Q. Has Geauga County ever refused to</p> <p>24 record a MERS mortgage?</p> <p>25 A. I don't know that either.</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. When did you first become aware</p> <p>2 that a lawsuit was contemplated?</p> <p>3 A. In the fall of last year.</p> <p>4 Q. How did you learn about that?</p> <p>5 A. My prosecutor.</p> <p>6 Q. Mr. Joyce?</p> <p>7 A. Mr. Joyce.</p> <p>8 Q. And you had a meeting about this?</p> <p>9 A. Yes.</p> <p>10 Q. And without giving me the specifics</p> <p>11 of the discussion, did he ask your opinion</p> <p>12 about whether you wanted to proceed with this</p> <p>13 lawsuit or not, or had he made the decision to</p> <p>14 proceed with it without you? Did he ask for</p> <p>15 your input?</p> <p>16 A. Yes.</p> <p>17 Q. He did ask for your input?</p> <p>18 A. No. What do you mean "input"?</p> <p>19 Q. Did he ask for your approval to</p> <p>20 file the lawsuit or not?</p> <p>21 A. Yes.</p> <p>22 Q. And you gave him the go-ahead to</p> <p>23 file the lawsuit?</p> <p>24 A. It wasn't my -- no. I mean, it</p> <p>25 wasn't --</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. Have you ever refused to record a</p> <p>2 MERS mortgage?</p> <p>3 A. I don't know. It would have</p> <p>4 depended, did they meet standardization?</p> <p>5 Q. Assuming they met the</p> <p>6 standardization, would you refuse to accept it</p> <p>7 because "MERS" is listed on the document?</p> <p>8 A. No.</p> <p>9 Q. If your view is that MERS is</p> <p>10 clouding the title, why are you accepting the</p> <p>11 MERS mortgages for filing?</p> <p>12 A. Because it meets the requirements.</p> <p>13 Q. Even though it clouds the title?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever asked Mr. Joyce for</p> <p>16 an opinion -- I'm not going to ask you what he</p> <p>17 said -- but have you ever asked Mr. Joyce for</p> <p>18 an opinion as to whether a MERS mortgage clouds</p> <p>19 the title and you can refuse to accept it?</p> <p>20 A. No.</p> <p>21 Q. Now, you are aware, Ms. Gingerich,</p> <p>22 that a lawsuit has been filed by Geauga County</p> <p>23 against various defendants about this</p> <p>24 assignment issue?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 121</p> <p>1 Q. Just go ahead. Tell me what you --</p> <p>2 A. Yeah. Okay. Yes.</p> <p>3 Q. Okay. Let me try again. What was</p> <p>4 the nature of the meeting?</p> <p>5 A. He said he was going to file the</p> <p>6 lawsuit.</p> <p>7 Q. And did he ask you whether you had</p> <p>8 any reservations about the lawsuit?</p> <p>9 A. He did not.</p> <p>10 Q. Between the fall of 2011 and '09,</p> <p>11 when you first learned about MERS, had you</p> <p>12 gathered any information, other information</p> <p>13 about MERS before you talked to Mr. Joyce?</p> <p>14 A. No.</p> <p>15 Q. So in that two-year gap, MERS</p> <p>16 wasn't something that was a concern of yours,</p> <p>17 essentially?</p> <p>18 A. No.</p> <p>19 Q. Now, do you know if the Geauga</p> <p>20 County Commissioners approved of the filing of</p> <p>21 the lawsuit on behalf of Geauga County?</p> <p>22 A. Yes.</p> <p>23 Q. How did they do that?</p> <p>24 A. They said okay.</p> <p>25 Q. Was there a meeting held about</p>



Page 122

1 that?

2 A. Yes.

3 Q. Were you at that meeting?

4 A. Yes.

5 Q. Was that a public meeting or a

6 private manage?

7 A. Private.

8 Q. Who else attended?

9 A. I think David Lair was in there.

10 Q. Who is he?

11 A. He is the Administrator.

12 Q. And the Commissioners as well?

13 A. Yes.

14 Q. And you and Mr. Joyce?

15 A. Yes.

16 Q. Mr. Siebott?

17 A. No.

18 Q. Just folks from Geauga County?

19 A. Yes.

20 Q. Do you recall how long the meeting

21 lasted?

22 A. No.

23 Q. Do you have any notes of the

24 meeting?

25 A. No.

Page 123

1 Q. Do you know if anyone else does?

2 A. I do not know.

3 Q. How many Commissioners are there?

4 A. Three.

5 Q. Did they all vote in favor of the

6 lawsuit?

7 A. Yes.

8 Q. How long did the meeting last?

9 A. I don't know.

10 Q. Can you give me a rough estimate?

11 A. It wasn't very long.

12 Q. Do you know if there was a copy of

13 the complaint, a draft copy of the complaint

14 available at that meeting to discuss with them?

15 A. No.

16 Q. Do you remember if they asked any

17 questions?

18 A. They did.

19 Q. And do you recall any of those

20 questions?

21 A. No.

22 Q. Did Mr. Joyce lead the discussion

23 about the lawsuit, or did you?

24 A. Mr. Joyce.

25 Q. Did you have any involvement in the

Page 124

1 decision to hire Mr. Siebott and his law firm?

2 A. No.

3 Q. It was done by Mr. Joyce?

4 A. Yes.

5 Q. Now, in the lawsuit there's an

6 allegation, and I think you stated at the very

7 start that MERS somehow breaks the chain of

8 title?

9 A. Correct.

10 Q. Tell me the basis for your belief

11 that MERS breaks the chain of title.

12 A. Because you don't know what

13 assignments have been made.

14 Q. And how does that break the chain

15 of title?

16 A. You don't know who owns the

17 mortgage.

18 Q. Is not knowing who owns the

19 mortgage different from saying there is a break

20 in the chain of title?

21 A. No.

22 Q. What is a break in the chain of

23 title?

24 A. Not knowing who owned the mortgage.

25 Q. So you think not knowing the owner

Page 125

1 is a break in the chain of title?

2 A. Yes.

3 Q. You're aware that sometimes trusts

4 will file documents in the land records?

5 A. Yes.

6 Q. And you can't tell who the members

7 are of the trust from the document they filed,

8 can you?

9 A. You can.

10 Q. You can. Does it always state it

11 in the trust?

12 A. I think so.

13 Q. Is there any other way that MERS

14 breaks the chain of title?

15 A. Other than not filing assignments?

16 I don't know.

17 Q. Do you know that borrowers have a

18 right under Federal Law to write to their loan

19 servicer and ask who owns the mortgage?

20 A. To do what?

21 Q. Do you know that a borrower has a

22 right under Federal Law to write to the loan

23 servicer and ask who the owner of their

24 mortgage is?

25 A. I didn't know.

Page 126

1 Q. Mr. Joyce never told you that?

2 A. No.

3 Q. Mr. Siebott never told you that?

4 A. No.

5 Q. Does that change your opinion about

6 MERS breaking the chain of title?

7 A. No.

8 Q. But your concern was not knowing

9 who the owner of the mortgage was?

10 A. Right.

11 Q. So if you could write a letter to

12 your loan servicer and they would have to tell

13 you under Federal Law, wouldn't that remedy the

14 problems you've just described?

15 A. I don't know.

16 Q. Now, you know what a title company

17 is?

18 A. Yes.

19 Q. And you know they insure loans?

20 A. Yes.

21 Q. Do you know any title companies

22 that have refused to insure loans in Geauga

23 County where MERS is listed as the mortgagee?

24 A. I do not know.

25 Q. Do you know of any reports by the

Page 127

1 Federal Government that MERS breaks the chain

2 of title?

3 A. I do not know.

4 Q. Do you know that various government

5 agencies participated in the formation of MERS?

6 A. I did not know.

7 Q. Do you know that County Recorders

8 were asked to give their input into the

9 creation of MERS in --

10 A. I didn't know --

11 Q. You didn't know that either?

12 A. No.

13 Q. Do you know that title insurers

14 participated in the formation of MERS?

15 A. I did not.

16 Q. Now, the lawsuit also says that

17 "There will be devastating consequences on the

18 public if assignments are not recorded." Can

19 you tell me what those devastating consequences

20 would be?

21 A. No.

22 Q. You don't know?

23 A. I do not.

24 Q. Who would know that, Mr. Joyce?

25 A. Yes.

Page 128

1 Q. Did he ever ask you?

2 A. No.

3 Q. Now, the lawsuit that was filed by

4 Geauga County is based on a duty to record

5 these mortgage assignments?

6 A. Yes.

7 Q. Alleged duty under Ohio Law. And I

8 know you're not a lawyer, so I'm not going to

9 ask you legal questions.

10 But Mr. Joyce believes it's a clear

11 legal duty that certain lenders have been

12 avoiding, I take it?

13 A. Yes.

14 Q. Have there been any other lawsuits

15 prior to the fall of 2012 alleging this issue,

16 that you're aware of, in Geauga County?

17 A. I don't know. Not that I'm aware

18 of.

19 Q. If it was a clear duty, do you have

20 any reason to know why there would not have

21 been lawsuits about this previously?

22 A. I don't know.

23 Q. MERS has been around for 20 years,

24 correct?

25 A. Yes.

Page 129

1 Q. Does the current budget situation

2 have anything to do with it?

3 A. No.

4 Q. How do you know that?

5 A. Because it's an issue of title.

6 It's an issue of chain of title.

7 Q. Right. But we've just -- there's a

8 Federal Law that allows borrowers to figure out

9 the information you say they don't have. So

10 the problem --

11 A. The question --

12 Q. -- the problem is remedied. You

13 disagree?

14 A. Correct.

15 Q. Were you asked to review a draft of

16 the complaint and give comments before it was

17 filed?

18 A. No.

19 Q. Why are you laughing?

20 A. I'm not a lawyer.

21 Q. No. But there are factual

22 allegations in the complaint that you might

23 have been asked to state your opinion on.

24 A. No.

25 Q. You were not asked.

Page 130

1 Are you kept apprised of the status  
2 of the case?  
3 A. No.  
4 Q. Now, as to assignments, and which  
5 assignments have to be recorded, we talked  
6 about at the very start mortgages and notes,  
7 correct?  
8 A. Yes.  
9 Q. Do you contend that assignments of  
10 mortgages need to be recorded, or assignments  
11 of notes?  
12 MR. SIEBOTT: Objection.  
13 Foundation and compound.  
14 Q. You can answer.  
15 A. I don't know how to answer it. Can  
16 you --  
17 Q. Okay. Let me ask you this; we  
18 talked earlier that there are two separate  
19 documents, a mortgage and a note, correct?  
20 A. Right.  
21 Q. And is it your position that  
22 lenders should be assigning -- recording  
23 assignments of mortgages or assignments of  
24 notes?  
25 A. Mortgages.

Page 131

1 Q. And do you know whether assignments  
2 of mortgages that are registered on the loan  
3 system exist in a physical form to be recorded?  
4 A. Would you restate that?  
5 MR. YENOUSKAS: Could you read it  
6 back?  
7 (Thereupon, the requested portion  
8 of the transcript was read by the Court  
9 Reporter.)  
10 Q. Well, I don't think he got it down  
11 right. Let me ask it again.  
12 Do you know whether for a loan  
13 that's registered on the MERS system, whether  
14 there's an actual physical document called an  
15 "assignment of mortgage" that's in existence  
16 that could be recorded?  
17 A. Thank you. I do not know.  
18 Q. Do you know whether Ohio Law  
19 requires assignments of transfers in interest  
20 of notes?  
21 A. I do not know.  
22 Q. You would agree with me that if  
23 something doesn't exist, it can't be recorded,  
24 correct?  
25 A. I would agree.

Page 132

1 Q. Thank you. Now, the lawsuit  
2 alleges that Geauga County has been deprived of  
3 recording fee revenue as a result of this lack  
4 of assignments, correct?  
5 A. Yes.  
6 Q. What is your estimate of the amount  
7 of revenue that's been deprived?  
8 A. I do not know.  
9 Q. Do you have a ballpark?  
10 A. I do not.  
11 - - - - -  
12 (Thereupon, Deposition Exhibit 32,  
13 An Article From "Maple Leaf", was  
14 marked for purposes of  
15 identification.)  
16 - - - - -  
17 Q. I'm handing you what's been marked  
18 Exhibit Number 32. Do you recognize this  
19 document?  
20 A. I do.  
21 Q. What is this?  
22 A. An article from Maple Leaf.  
23 Q. And Maple Leaf is a Geauga County  
24 newspaper?  
25 A. Yes.

Page 133

1 Q. Dated Thursday, October 13, 2011?  
2 A. Yes.  
3 Q. And if you look around at the  
4 bottom, the very last sentence states that  
5 "Gauga County Recorder Sharon Gingerich said  
6 the alleged unlawful effort has cost the county  
7 more than \$250,000 in missed mortgage filing  
8 fees since 1997."  
9 A. Yes.  
10 Q. Did you make that statement to the  
11 reporter?  
12 A. I did.  
13 Q. And what's your basis for that  
14 statement?  
15 A. A figure given to me by Ms. Joyce.  
16 Q. Mr. Joyce came up with that number?  
17 A. Yes.  
18 Q. Do you know how he came up with  
19 that number?  
20 A. I do not.  
21 Q. Could Mr. Joyce have developed the  
22 number without somehow accessing your systems?  
23 A. I don't know.  
24 Q. Do you have any reason to believe  
25 whether that number is accurate or not?

Page 134

1 A. I don't know.  
2 Q. Have you done any analysis for how  
3 much money the county has lost because of  
4 non-recorded assignments?

5 A. No.

6 Q. You've not been asked to do that?

7 A. No.

8 Q. How would you do that if you were  
9 asked?

10 A. How could you -- how could I  
11 determine what hasn't been recorded? I  
12 couldn't.

13 MR. CUNNINGHAM: Joe, can I  
14 interject? You identified Exhibit 31 as  
15 Exhibit 32. I had 33 as -- did we miss one?

16 MR. YENOUSKAS: Let's take a break.  
17 (Thereupon, a recess was taken.)

18 MR. YENOUSKAS: Back on the record  
19 at 1:21. Just to clear up some confusion about  
20 exhibit numbers, the mortgage that was recorded  
21 in Geauga County is Exhibit Number 31; is that  
22 right?

23 MR. SIEBOTT: That's correct.

24 MR. YENOUSKAS: And Exhibit Number  
25 32 is an article from the Maple Leaf? That's

Page 136

1 would be the one thing. Of course, that can  
2 be -- I'm sure we can work that out.

3 MR. YENOUSKAS: That's not a big  
4 deal. And the other thing I just would put on  
5 the record is that this is the deposition of  
6 the Office of this Geauga County Recorder.  
7 It's not a 30(b)(6) deposition of the county.  
8 So we all still retain the right to notice a  
9 30(b)(6) deposition of Geauga County as well in  
10 the case and get its testimony about the  
11 matters in the lawsuit.

12 MR. SIEBOTT: That's correct. One  
13 last thing, if everybody could -- I know we  
14 talked about this. But it would help me just  
15 to have -- to put faces to names. If everybody  
16 could just introduce themselves and tell me who  
17 they represent.

18 MR. BROCHIN: I'm Bobby Brochin,  
19 Morgan Lewis. I represent the two MERS  
20 entities; MERSCORP and Mortgage Electronic  
21 Registration Systems.

22 MS. GHANNOUM: Lisa Gannoum of  
23 Baker & Hostetler, on behalf of KeyBank  
24 National Association, Fifth Third Bank and the  
25 Huntington National Bank.

Page 135

1 Exhibit Number 32. We have yet to get to  
2 number 33.

3 MR. SIEBOTT: So we also want to  
4 put on the record that the intent is that this  
5 deposition is for class certification purposes.  
6 If there -- if anyone has merits-related  
7 questions, you should probably wait to ask  
8 them. You'll have another opportunity if you  
9 want to hold a deposition on the merits of Ms.  
10 Gingerich at a later date. And I hope that  
11 that that's clear.

12 MR. BROCHIN: In other words, if we  
13 don't ask questions on the merits, that's  
14 without prejudice for us to come back and  
15 redepose her at a later date, if need be?

16 MR. SIEBOTT: That's correct. On  
17 one condition, that if there is another  
18 deposition, it be held in Geauga County rather  
19 than Cleveland, rather than Cuyahoga County.

20 MR. YENOUSKAS: Is that because of  
21 the issue we talked about before?

22 MR. SIEBOTT: No. I think it's  
23 just because for her to come here, she has to  
24 take days off of work, and she doesn't go home  
25 at night, and it's just a little -- so that

Page 137

1 MR. WALL: Brett Wall, Baker &  
2 Hostetler, also representing Key, Fifth Third  
3 and Huntington.

4 MR. CARPENTER: Mike Carpenter,  
5 Carpenter, Lipps & Leland. I represent  
6 Nationwide Advantage Mortgage Company.

7 MR. CUNNINGHAM: Tom Cunningham,  
8 from Locke Lord. I represent GMAC Mortgage and  
9 US Bank.

10 MR. ERNST: Christopher Ernst, from  
11 Bricker & Eckler, here in place of Nelson Reed,  
12 representing Chase.

13 MS. YAKSIC: Barbara Yaksic, from  
14 McGlinchey Stafford, for CoreLogic, SunTrust,  
15 Bank of America, Ever Home, et al.

16 MS. MUSIEK: Candice Musiek, from  
17 McGlinchey Stafford, and the same group of  
18 defendants.

19 MR. WERTHEIM: Jim Wertheim, the  
20 same.

21 MR. DUHAMEL: Marcel Duhamel. I  
22 have Corinthian.

23 MR. QUINLAN: Michael Quinlan,  
24 representing MGIC Investigator Services Corp.

25 MR. HICKS: Todd Hicks, Thrasher,

<p style="text-align: right;">Page 138</p> <p>1 Dinsmore &amp; Dolan. I represent Home Savings.  2 MR. WHOLEY: Matthew Wholey of  3 Ulmer &amp; Berne. We represent HSB Bank USA.  4 MR. POSEY: Terry Posey, Thompson  5 Hine, for Wells Fargo Bank.  6 MS. KOESEL: Margaret Koesel,  7 Porter Wright, for Deutsche Bank National Trust  8 Company.  9 MR. ALLENSWORTH: Bruce  10 Allensworth, K&amp;L Gates, Goldman Sachs Mortgage  11 Company, GS Mortgage Securities.  12 MR. POPE: David Pope, Mayer Brown,  13 for the Citi Defendants.  14 MR. SIEBOTT: I'm Christian  15 Siebott, Bernstein Leibhard. We represent  16 Geauga County.  17 MS. GOODMAN: Sara Goodman. The  18 same.  19 Q. Okay. Let's keep going. Ms.  20 Gingerich, tell me what you understand your  21 ability to be to reject a document for  22 filing -- for recording, excuse me, that's  23 presented to you?  24 A. Standardization.  25 Q. Could you explain that?</p>	<p style="text-align: right;">Page 140</p> <p>1 - - - - -  2 (Thereupon, Deposition Exhibit 33, A  3 Document Entitled "Chapter 317:  4 Recorder", was marked for purposes  5 of identification.)  6 - - - - -  7 Q. I'm handing you what's been marked  8 Exhibit Number 33, Ms. Gingerich. Do you see  9 it's entitled "Chapter 317" of the Ohio Code?  10 A. Yes.  11 Q. And that's the other main chapter  12 that deals with your duties as a Recorder?  13 A. Yes.  14 Q. Turn to chapter -- excuse me --  15 Section 317.13. It's on page 12. Do you see  16 there it has the duties of Recorder in the  17 middle?  18 A. Yes.  19 Q. Take a look at Section B. Just  20 read that to yourself.  21 A. Yes.  22 Q. And it appears in this section that  23 you do have the ability to, quote, "refuse to  24 record an instrument if it's not required or  25 authorized by the code, or if you have a</p>
<p style="text-align: right;">Page 139</p> <p>1 A. Three inches at the top, an inch  2 around the sides, things in the margin. In  3 other words, it has to be three inches at the  4 top, but nothing but stamps from the Auditor,  5 the Engineer, the Recorder. Same thing with  6 the margin. If there's not a legal fee -- a  7 legal description, and a legal is required, we  8 would reject it. There's -- illegibility, we  9 would reject it. It's clerical problems.  10 Clerical issues.  11 Q. So it has to meet the requirements  12 of the code for what the document must consist  13 of and the appropriate fee?  14 A. Correct.  15 Q. Do you have any substantive ability  16 to review a document and reject it for a  17 substantive reason, if it's not a legal  18 document in some way?  19 A. It has to be a document that we  20 have a category for.  21 Q. Like a mortgage or an assignment?  22 A. Yes.  23 Q. What about if you had concerns  24 about the contents of the document?  25 A. No.</p>	<p style="text-align: right;">Page 141</p> <p>1 reasonable cause to believe the instrument is  2 materially false or fraudulent." Do you see  3 that?  4 A. Yes, I do.  5 Q. And so it appears you do have the  6 authority to reject certain documents that  7 might be false or fraudulent, correct?  8 A. Yes.  9 Q. What policies and procedures do you  10 have in place to assess whether a document is  11 materially false or fraudulent?  12 A. If someone believes that for some  13 reason, they bring it to me, and I take it to  14 Mr. Joyce.  15 Q. And when you say "someone", give me  16 an example of that?  17 A. Jared, Celesta, Mike, Beth.  18 Q. Has that happened before?  19 A. No.  20 Q. And what kinds on of things would  21 they look for to determine --  22 A. I take that back. There is one  23 incident that has happened.  24 Q. Tell me about that.  25 A. It has -- it's Worsing.</p>

36 (Pages 138 - 141)

Page 142

1 MR. SIEBOTT: It's an open fraud  
2 investigation, so she can't really talk about  
3 it. It's the Worsing documents I was talking  
4 to you about earlier.  
5 Q. Let me ask a different question.  
6 When you receive a document for recording, what  
7 are the kinds of things you look at to make  
8 sure that it's not materially false or  
9 fraudulent?  
10 A. Well, if it's a mortgage,  
11 everything in it should be about a mortgage.  
12 This -- if it's something that's off-the-wall,  
13 we take it to Dave.  
14 Q. Well, I guess how do your employees  
15 know what is false or fraudulent?  
16 A. If it's really off-the-wall, and --  
17 in other words, if somebody comes in and files  
18 a document that says "I hereby renounce the  
19 flag", and something that doesn't have to do  
20 with a land record, then we would ask  
21 Mr. Joyce.  
22 Q. Okay. That would seem to fall into  
23 a document that's not required or authorized by  
24 the code. But what if it's a document that is  
25 authorized by the code, such as a mortgage or

Page 143

1 an assignment or a deed; is there a policy and  
2 procedure in place to determine whether that  
3 mortgage or --  
4 A. No.  
5 Q. -- let me finish -- deed or  
6 assignment is false or fraudulent? Go ahead.  
7 A. No.  
8 Q. Now, did either you or Mr. Joyce  
9 hold any public meetings about this lawsuit  
10 before the filing of the lawsuit to alert the  
11 citizens of Geauga County that you were going  
12 to be filing the lawsuit?  
13 A. No.  
14 Q. Did Mr. Joyce or you send any  
15 surveys or questionnaires out to citizens of  
16 Geauga County about their views of this lawsuit  
17 before it was filed?  
18 A. No.  
19 Q. Would you agree that Mr. Joyce and  
20 you should only be taking matters that are in  
21 the public interest, correct?  
22 A. Yes.  
23 Q. And you wouldn't want to take a  
24 matter that was not in the public interest and  
25 that would hurt the public, would you?

Page 144

1 A. No.  
2 Q. Let's just look at some of the  
3 possible impacts of this lawsuit. You would  
4 agree with me that it would be not in the  
5 interest of Geauga County residents if they had  
6 to pay higher interest rates as a result of  
7 this lawsuit?  
8 A. What is the -- I understand the  
9 content, but what is your question?  
10 Q. Give me a "yes" or "no" answer.  
11 A. I'm not sure how "yes" or "no"  
12 goes.  
13 Q. Okay. Do you believe personally it  
14 would be in the interest of the residents of  
15 Geauga County if their interest rates went up  
16 for --  
17 A. Do I believe it would be in the  
18 best interest?  
19 Q. Yes. In the public interest.  
20 A. No.  
21 Q. Your answer was what?  
22 A. No.  
23 Q. Now, if Geauga County prevails in  
24 this case, you've requested that all mortgage  
25 assignments in the past be recorded, correct?

Page 145

1 A. Yes.  
2 Q. And you've requested that all  
3 mortgage assignments in the future be recorded  
4 as well?  
5 A. Yes.  
6 Q. And lenders will have to incur  
7 costs to create and record those assignments,  
8 correct?  
9 A. I don't know.  
10 Q. Will they have to pay a fee to your  
11 county to record them?  
12 A. Yes.  
13 Q. Will they have to transmit them to  
14 your office somehow?  
15 A. Yes.  
16 Q. Will an employee at those lenders  
17 have to physically create those assignments?  
18 A. Yes.  
19 Q. Those are all costs, correct?  
20 A. Yes.  
21 Q. And if the lenders pass those costs  
22 along to their borrowers, that will result in  
23 higher interest rates; will it not?  
24 A. I don't know. Interest rates? I  
25 don't know.

Page 146

1 Q. Will you agree with me that if as a  
2 result of that interest rates went up, that  
3 would be adverse to the interest of your  
4 citizens?  
5 A. I don't know.  
6 Q. You don't know? Do you like paying  
7 higher interest rates or lower interest rates?  
8 A. Lower, but --  
9 Q. Did Mr. Joyce discuss that  
10 possibility with you when you had the initial  
11 meeting about this lawsuit?  
12 A. No.  
13 Q. Did you and Mr. Joyce discuss that  
14 with the Commissioners --  
15 MR. SIEBOTT: Objection. That's  
16 privileged conversation.  
17 MR. YENOUSKAS: What's the basis?  
18 MR. SIEBOTT: Mr. Joyce represents  
19 the county. Any discussion they had is  
20 privileged.  
21 Q. Do you agree that if as a result of  
22 the remedy that you're seeking, the recording  
23 of assignments, interest rates would go up in a  
24 county, you agree that that's a decision that  
25 each county needs to make on its own, whether

Page 147

1 it wants to visit that on its citizens?  
2 A. I don't know.  
3 Q. You don't know. Would you like  
4 another county increasing the interest rates of  
5 Geauga County through its actions?  
6 A. No.  
7 Q. Now, you testified earlier that  
8 currently you record each document to be  
9 presented in essentially one day, 24 hours?  
10 A. Yes.  
11 Q. Would you agree with me that it  
12 would be bad for the public interest if the  
13 recording of documents would be delayed?  
14 A. Yes.  
15 Q. What would be the impact if you  
16 prevailed in this lawsuit on the time frame in  
17 which it would take you to record documents?  
18 A. One day.  
19 Q. What would happen if, for  
20 example -- and just taking a hypothetical -- on  
21 January 1, 2013 you were presented with -- and  
22 I'm using a hypothetical -- 30,000 documents,  
23 assignments that need to be recorded; how long  
24 would it take you to record those documents?  
25 A. I don't know.

Page 148

1 Q. Could you record them in one day?  
2 A. I don't know.  
3 Q. You don't know whether -- you think  
4 you could record them in one day?  
5 A. We have had many come through. I  
6 have not counted, but assignments, and we have  
7 done it in one day, yes.  
8 Q. It looked like from the statistics  
9 you had done 13,000 in the entire year of 2010,  
10 correct?  
11 A. Yes.  
12 Q. So this would be more than two  
13 times the amount of assignments you did in a  
14 year. How could you record a similar amount in  
15 one day?  
16 A. You know, I would have to see the  
17 document. I don't know.  
18 Q. I'm not asking -- you don't need to  
19 see a document to answer the question. You  
20 know your office better than I do. You're  
21 averaging a few hundred a day, roughly,  
22 correct?  
23 A. Because that's what's brought in.  
24 Q. Right. How could your staff, your  
25 limited staff, which several of the documents

Page 149

1 say you're strained to the bone in terms of  
2 your staff, and everyone is working at  
3 capacity, how could you record 30,000 documents  
4 in one day?  
5 MR. SIEBOTT: Objection. She said  
6 she doesn't know. It's asked and answered.  
7 Q. That would be 1,000 an hour.  
8 MR. SIEBOTT: Objection.  
9 Argumentative.  
10 Q. Could your office record 1,000  
11 documents in one hour?  
12 A. I would have to see the documents.  
13 I don't know.  
14 Q. Do your employees work overtime?  
15 A. No.  
16 Q. So they would have to get these  
17 30,000 documents reported in an  
18 eight-and-a-half hour day?  
19 A. Yes.  
20 Q. Did you tell the -- did Mr. Joyce  
21 tell you about the possibility that you might  
22 have to record 30,000 assignments if you  
23 prevailed in this lawsuit?  
24 A. No.  
25 Q. Any discussions with the

38 (Pages 146 - 149)

<p style="text-align: right;">Page 150</p> <p>1 Commissioners about that issue?</p> <p>2 A. No.</p> <p>3 Q. Do you agree with me that each</p> <p>4 county would need to decide for itself whether</p> <p>5 it wanted to have that remedy visited upon</p> <p>6 them, and whether they had the capabilities to</p> <p>7 handle it?</p> <p>8 A. Yes.</p> <p>9 Q. If these additional assignments had</p> <p>10 to be recorded, you would have to pay two</p> <p>11 dollars to ACS for each document, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And that would be less money that</p> <p>14 the county would have at its disposal, correct?</p> <p>15 A. Less money?</p> <p>16 Q. Yes.</p> <p>17 A. I'm not following your reasoning.</p> <p>18 Q. That's fine.</p> <p>19 Ms. Gingerich, you stated you</p> <p>20 believe it's in the public interest to have a</p> <p>21 complete chain of title, correct?</p> <p>22 A. Yes.</p> <p>23 Q. As to each mortgage. Is it in the</p> <p>24 public interest if some lenders are required to</p> <p>25 record assignments and others are not?</p>	<p style="text-align: right;">Page 152</p> <p>1 little bit. Let's say you have a borrower who</p> <p>2 obtains a loan in 2008, and a mortgage is</p> <p>3 placed and recorded in the Geauga County land</p> <p>4 records. Are you following me so far?</p> <p>5 A. Yes.</p> <p>6 Q. And that loan, that mortgage and</p> <p>7 the loan associated with that mortgage is</p> <p>8 assigned several times.</p> <p>9 A. Okay.</p> <p>10 Q. Those are not recorded. And then</p> <p>11 in 2010 the borrower refinances, and they get a</p> <p>12 new loan with a new lender, and that mortgage</p> <p>13 is recorded in the land records. So now you</p> <p>14 have a second mortgage replacing the first</p> <p>15 mortgage. Are you following me so far?</p> <p>16 A. Yes.</p> <p>17 Q. Could you tell me what the public</p> <p>18 interest would be in recording the assignments</p> <p>19 as to the first two transfers after a new</p> <p>20 mortgage has been put in place?</p> <p>21 A. What the public interest would be?</p> <p>22 Q. How would that serve the public</p> <p>23 interest?</p> <p>24 A. It would serve the land owner.</p> <p>25 Q. Explain to me how.</p>
<p style="text-align: right;">Page 151</p> <p>1 A. Is it in the public interest? No.</p> <p>2 Q. And you know that you're only suing</p> <p>3 a small number of lenders in this case,</p> <p>4 correct?</p> <p>5 A. I guess it depends on your</p> <p>6 definition of "small".</p> <p>7 Q. Approximately 30 lenders, correct?</p> <p>8 A. Okay.</p> <p>9 Q. And all the other lenders that</p> <p>10 aren't sued would not have to record</p> <p>11 assignments, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Did you discuss that issue with</p> <p>14 Mr. Joyce before filing the lawsuit?</p> <p>15 A. No.</p> <p>16 Q. Did you discuss it with the</p> <p>17 Commissioners?</p> <p>18 A. No.</p> <p>19 Q. Now, would you agree with me, Ms.</p> <p>20 Gingerich, that it would not be in the public</p> <p>21 interest to do something that was an</p> <p>22 unnecessary or useless act?</p> <p>23 A. Would I agree that it's not in the</p> <p>24 best interest? Yes.</p> <p>25 Q. I just want to explore that a</p>	<p style="text-align: right;">Page 153</p> <p>1 A. Well, if you wanted to trace his</p> <p>2 chain of title to make sure the right person --</p> <p>3 that he knows who held his mortgage.</p> <p>4 Q. Right. But under my scenario he's</p> <p>5 refied his mortgage with a new lender. He's</p> <p>6 left the old loan behind. He's gotten a new</p> <p>7 loan. He knows who his new lender is. Why</p> <p>8 does he care about the prior loan?</p> <p>9 A. What if it wasn't done right?</p> <p>10 Q. In what way?</p> <p>11 A. It wasn't released.</p> <p>12 Q. Let's assume it was released, and</p> <p>13 the release was filed by lender A. Lender B</p> <p>14 comes along and makes a new mortgage. Why does</p> <p>15 he care about the assignments of the first</p> <p>16 loan?</p> <p>17 A. He may not have a clear title.</p> <p>18 Q. If his loan is released, how is his</p> <p>19 title unclear? He's no longer obligated on</p> <p>20 that.</p> <p>21 A. I don't know.</p> <p>22 Q. You don't know?</p> <p>23 A. I don't know.</p> <p>24 Q. Let me ask you this question; who</p> <p>25 has the obligation to record the assignment?</p>



<p style="text-align: right;">Page 154</p> <p>1 Is it lender A, who's assigning the loan to</p> <p>2 lender B, or is it lender B?</p> <p>3 A. It's the person assigning the loan.</p> <p>4 Q. The assignor. Okay. The person</p> <p>5 making the assignments. So lender A in our</p> <p>6 hypothetical.</p> <p>7 What would happen if lender A went</p> <p>8 bankrupt, or gone out of business; how would</p> <p>9 that assignment be executed?</p> <p>10 A. I don't know.</p> <p>11 Q. You have no idea?</p> <p>12 A. I don't know.</p> <p>13 Q. Have you discussed these kinds of</p> <p>14 issues with the County Commissioners?</p> <p>15 A. No.</p> <p>16 Q. You agree with me that other</p> <p>17 counties might conclude that not having</p> <p>18 assignments in those circumstances weren't</p> <p>19 necessary to create a clear title, correct?</p> <p>20 A. I don't know what other counties</p> <p>21 would do.</p> <p>22 Q. Do you know if they all adhere to</p> <p>23 your view about what's required?</p> <p>24 A. I do not.</p> <p>25 Q. Ms. Gingerich, we talked about</p>	<p style="text-align: right;">Page 156</p> <p>1 devoted to doing those tasks, correct?</p> <p>2 A. Yes.</p> <p>3 Q. You would have had to index those</p> <p>4 documents?</p> <p>5 A. Yes.</p> <p>6 Q. Scan the documents?</p> <p>7 A. Yes.</p> <p>8 Q. Send them back to borrower, to the</p> <p>9 grantors or the mortgagees, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And those costs were saved by not</p> <p>12 having those documents filed, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And that is going to vary</p> <p>15 from county to county in terms of the amount of</p> <p>16 the savings that may have occurred?</p> <p>17 A. Is that a question?</p> <p>18 Q. Yes.</p> <p>19 A. Yes</p> <p>20 Q. Okay.</p> <p>21 - - - - -</p> <p>22 (Thereupon, Deposition Exhibit 34, A</p> <p>23 Document Bates Stamped GCR-1286, was</p> <p>24 marked for purposes of</p> <p>25 identification.)</p>
<p style="text-align: right;">Page 155</p> <p>1 earlier the provisions of the code that talk</p> <p>2 about how a person with multiple mortgages</p> <p>3 could assign them on a single instrument, by</p> <p>4 means of a single instrument. Do you remember</p> <p>5 that testimony?</p> <p>6 A. Yes.</p> <p>7 Q. Your lawsuit seeks to mandate a</p> <p>8 written document for each mortgage, correct?</p> <p>9 A. I'm not sure.</p> <p>10 Q. Do you agree with me though that</p> <p>11 each county should be allowed to decide whether</p> <p>12 it wants to allow the separate instruments or</p> <p>13 use of a single instrument?</p> <p>14 A. Each county makes their own policy,</p> <p>15 yes.</p> <p>16 Q. Ms. Gingerich, do you believe that</p> <p>17 Geauga County benefited in any way by the</p> <p>18 non-recording of assignments for loans</p> <p>19 registered on the MERS system, or any other</p> <p>20 loans?</p> <p>21 A. Benefited by the non-recording?</p> <p>22 No.</p> <p>23 Q. If assignments had been recorded</p> <p>24 all along, as you're contending is required in</p> <p>25 your lawsuit, you would have had to have staff</p>	<p style="text-align: right;">Page 157</p> <p>1 - - - - -</p> <p>2 Q. I'm handing you what's been marked</p> <p>3 Defendants' Exhibit Number 34 by the court</p> <p>4 reporter. It is GCR-001286.</p> <p>5 Could you identify this document</p> <p>6 for me, Ms. Gingerich?</p> <p>7 A. It is a Mortgage Electronic</p> <p>8 Registration Systems, dated January 2012.</p> <p>9 Q. And is this something you wrote?</p> <p>10 A. Yes.</p> <p>11 Q. And what was the purpose of writing</p> <p>12 this?</p> <p>13 A. This might have been the Tea Party</p> <p>14 one.</p> <p>15 Q. Okay. Did you transmit this to</p> <p>16 anyone outside the office?</p> <p>17 A. No.</p> <p>18 Q. You never did; it just went in your</p> <p>19 file?</p> <p>20 A. It was going to go to the Tea</p> <p>21 Party.</p> <p>22 Q. Was the meeting canceled for some</p> <p>23 reason, or you just decided not to participate</p> <p>24 in the meeting?</p> <p>25 A. I did not -- I decided not to hand</p>

40 (Pages 154 - 157)

<p style="text-align: right;">Page 158</p> <p>1 this out. The meeting was not canceled. I</p> <p>2 think this was the one.</p> <p>3 Q. Now, in the middle of the page you</p> <p>4 talk about the status of your lawsuit. You've</p> <p>5 mentioned a lawsuit has been filed. And you</p> <p>6 talk about a bill by Senator Corker?</p> <p>7 A. Yes.</p> <p>8 Q. Is that a bill that you are in</p> <p>9 favor of?</p> <p>10 A. No.</p> <p>11 Q. Tell me why.</p> <p>12 A. Because it would create a single</p> <p>13 national database and take it out of the</p> <p>14 Recorder's Office.</p> <p>15 Q. And why are you against that?</p> <p>16 A. Because it should be local.</p> <p>17 Because people can come in and access their</p> <p>18 information, if I have it. And because it</p> <p>19 shouldn't be a government function. It should</p> <p>20 be local.</p> <p>21 Q. If members of the public could</p> <p>22 access the national database through a website,</p> <p>23 would you be okay with it then?</p> <p>24 A. You know, you would be putting out</p> <p>25 the socials again if you did that kind of</p>	<p style="text-align: right;">Page 160</p> <p>1 A. That is my opinion.</p> <p>2 Q. At the bottom of this memo, you say</p> <p>3 that "MERS is responsible for inability to</p> <p>4 trace chain of title." Can you explain that</p> <p>5 sentence?</p> <p>6 A. You cannot go back and find out who</p> <p>7 owns your mortgage, because -- if it's in MERS.</p> <p>8 Q. Well, MERS is listed as the</p> <p>9 mortgagee on the mortgage. We saw that on one</p> <p>10 of the exhibits, correct? So we know who the</p> <p>11 mortgagee is?</p> <p>12 MR. SIEBOTT: Objection.</p> <p>13 Argumentative.</p> <p>14 Q. Do you mean the owner of the loan?</p> <p>15 A. The mortgage, yes.</p> <p>16 Q. The loan. Okay. Because we talked</p> <p>17 about the note and the mortgage. So you're</p> <p>18 talking about who the lender is?</p> <p>19 A. Yes. They cannot find out who owns</p> <p>20 it.</p> <p>21 Q. But you're not aware of the Federal</p> <p>22 Truth in Lending Law that allows borrowers to</p> <p>23 write to the lender and ask them that</p> <p>24 information? You're not aware of that,</p> <p>25 correct?</p>
<p style="text-align: right;">Page 159</p> <p>1 thing. And would they be able to? If it's</p> <p>2 MERS, it's not available to the public.</p> <p>3 Q. Let me ask you this; where does the</p> <p>4 social come from?</p> <p>5 A. They used to write them in for some</p> <p>6 reason, and the law has changed to not allow</p> <p>7 that anymore.</p> <p>8 Q. So there are no socials?</p> <p>9 A. Correct.</p> <p>10 Q. So that wouldn't be a problem?</p> <p>11 A. Right.</p> <p>12 Q. So I'm just trying to get at what</p> <p>13 you don't like about the bill.</p> <p>14 A. Are you asking me --</p> <p>15 Q. Sorry.</p> <p>16 A. I'm sorry. I was waiting for you</p> <p>17 to ask another question.</p> <p>18 Q. I thought you were thinking. I</p> <p>19 would like to get at what specific problem you</p> <p>20 have with the bill then, if socials aren't</p> <p>21 involved?</p> <p>22 A. I just think the county government,</p> <p>23 the County Recorder can keep better records</p> <p>24 than a government. And we keep better track.</p> <p>25 Q. That's your personal opinion?</p>	<p style="text-align: right;">Page 161</p> <p>1 MR. SIEBOTT: Objection. Asked and</p> <p>2 answered.</p> <p>3 Q. You established you weren't aware</p> <p>4 of that. Okay.</p> <p>5 You state that "often times</p> <p>6 assignments are lost." What is the basis for</p> <p>7 that statement?</p> <p>8 A. One of the other sources that I</p> <p>9 took this from. One of the other papers.</p> <p>10 Q. Do you remember which one?</p> <p>11 A. I think it was the OAITA.</p> <p>12 Q. Mr. Holman?</p> <p>13 A. Yes.</p> <p>14 Q. So something he wrote led you to</p> <p>15 write that sentence?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware of any specific</p> <p>18 examples in Geauga County of assignments being</p> <p>19 lost from mortgages?</p> <p>20 A. No.</p> <p>21 Q. You're not? I'm sorry?</p> <p>22 A. No.</p> <p>23 Q. You state that "The information</p> <p>24 contained in the registry is wrong." What's</p> <p>25 the basis for that statement?</p>

Page 162

1 A. Same.

2 Q. Mr. Holman?

3 A. Yes.

4 Q. And you state that "The person

5 assigning the mortgage has no tangible

6 relationship to MERS or to a participating

7 financial institution, i.e., Robo-signer." Is

8 it, again, Mr. Holman is your source for that?

9 A. No. It's mortgages that have --

10 have on record that they were owned by one

11 bank, and then another bank releases them.

12 Q. Okay. And tell me how you came to

13 understand that the person assigning it has no

14 tangible relationship to MERS or the

15 participating financial institution?

16 A. Because MERS would sign it, or

17 someone else would sign it who wasn't the last

18 person to own it.

19 Q. And tell me how you know that.

20 A. Because I've seen it in records.

21 Q. Which records?

22 A. In my office.

23 Q. You have?

24 A. I saw one. I saw one. Well, no.

25 I take that back. It was on one of the

Page 163

1 production of documents I saw.

2 Q. By one of the lenders, or

3 something?

4 A. Yes.

5 Q. So you're not aware of any

6 instances in Geauga County?

7 A. Personally, I'm not aware.

8 - - - - -

9 (Thereupon, Deposition Exhibit 35, A

10 Document Bates Stamped GCR-001294,

11 was marked for purposes of

12 identification.)

13 - - - - -

14 Q. Exhibit Number 35 has been handed

15 to you, Ms. Gingerich. It's Bates numbered

16 GCR-1294. Could you identify this document?

17 A. This is the one that went out to

18 the Tea Party.

19 Q. Okay. So this was sent out. How

20 do you know that this one was sent out?

21 A. Sorry. Because of the form --

22 Q. Okay.

23 A. -- on the letter.

24 Q. Fair enough. And roughly what time

25 period are we talking about?

Page 164

1 A. March.

2 Q. March of this year?

3 A. Yes.

4 Q. And the second bullet point from

5 the bottom -- we've talked about some of the

6 other stuff -- you say; "MERS is a system that

7 has created chaos with the court system and the

8 real estate industry." Can you tell me the

9 basis for that statement?

10 A. Because of foreclosures that have

11 had to be postponed, or whatever, because they

12 couldn't trace the chain of title. They

13 couldn't find the proper person to release the

14 mortgage.

15 Q. And do you have any specific

16 examples of that?

17 A. No.

18 Q. Now, Ms. Gingerich, after the

19 lawsuit was filed, there were efforts made by

20 Mr. Joyce and by yourself to try to alert the

21 other counties to the filing of the lawsuit,

22 and alert the other prosecutors, and to invite

23 their participation in the lawsuit?

24 A. Yes.

25 Q. Tell me about those efforts.

Page 165

1 A. I told the Recorders that it had

2 been filed, and that they should talk to their

3 prosecutors.

4 Q. So you alerted them to the lawsuit?

5 A. Yes.

6 Q. How did you do that?

7 A. At a meeting.

8 Q. And where was that?

9 A. Columbus.

10 Q. So the lawsuit was filed in

11 October. Do you recall roughly when after

12 October it would have been?

13 A. November.

14 Q. November. Is this one of your

15 three annual meetings?

16 A. Yes.

17 Q. And you told them to talk to their

18 prosecutors?

19 A. Yes.

20 Q. Did you give them a copy of the

21 complaint at that time?

22 A. No.

23 Q. Were you asked any questions at

24 that meeting about the lawsuit?

25 A. No.

<p style="text-align: right;">Page 166</p> <p>1 Q. Nothing at all?</p> <p>2 A. No.</p> <p>3 Q. People just said "thank you"?</p> <p>4 A. It was part of an update.</p> <p>5 Q. And after that meeting in November,</p> <p>6 did you have any other communications with</p> <p>7 counties about the lawsuit?</p> <p>8 A. Yes.</p> <p>9 Q. Tell me about those.</p> <p>10 A. People would ask how it's going, or</p> <p>11 what was going on. And most of the time I said</p> <p>12 "I don't know".</p> <p>13 Q. Did any of the other counties</p> <p>14 express their views about the lawsuit to you?</p> <p>15 A. About the lawsuit, no.</p> <p>16 Q. Did any prosecutors express their</p> <p>17 views to Mr. Joyce who told you about those</p> <p>18 views?</p> <p>19 A. I don't know.</p> <p>20 Q. You don't recall him saying I</p> <p>21 talked to a certain prosecutor, and he said</p> <p>22 "X"?</p> <p>23 A. He -- no.</p> <p>24 Q. Did Mr. Joyce have any meetings</p> <p>25 with prosecutors about the lawsuit?</p>	<p style="text-align: right;">Page 168</p> <p>1 purposes of identification.)</p> <p>2 - - - - -</p> <p>3 Q. I'm handing you Exhibit Number 36,</p> <p>4 Ms. Gingerich. I'm handing you a document that</p> <p>5 has been marked Exhibit Number 36, and it's</p> <p>6 Bates number ORA 147 to 150. Do you see that</p> <p>7 document?</p> <p>8 A. Yes.</p> <p>9 Q. Are these what the minutes look</p> <p>10 like of the legislative meetings of the ORA?</p> <p>11 A. Yes.</p> <p>12 Q. They're typed up afterwards?</p> <p>13 A. Yes.</p> <p>14 Q. And they record what happened. Bad</p> <p>15 use of words. They capture afterwards what</p> <p>16 happened at the meeting?</p> <p>17 A. Yes.</p> <p>18 Q. Turn over to the second page.</p> <p>19 There's sort of an entry about "Geauga County</p> <p>20 Class Action Suit." Just read that to</p> <p>21 yourself.</p> <p>22 Now, who is Tony Brigano?</p> <p>23 A. He works for Hicks Partners.</p> <p>24 Q. And that's a lobbying firm?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 167</p> <p>1 A. Yeah. Well, I don't know about</p> <p>2 meetings. But, yes.</p> <p>3 Q. Okay. How did he interact with</p> <p>4 other prosecutors about the case?</p> <p>5 A. I think he spoke at their</p> <p>6 conference, or something.</p> <p>7 Q. That would have been in January?</p> <p>8 A. I don't know when that was.</p> <p>9 Q. What did he say to you after the</p> <p>10 conference?</p> <p>11 A. He didn't say anything.</p> <p>12 Q. You didn't ask him how it went?</p> <p>13 A. No.</p> <p>14 Q. Okay. Do you have any interest in</p> <p>15 the views of other counties about the lawsuit?</p> <p>16 A. Yeah.</p> <p>17 Q. But you didn't ask him about that?</p> <p>18 A. I did not ask.</p> <p>19 Q. Has the Ohio Records Association</p> <p>20 endorsed the lawsuit?</p> <p>21 A. No. Not that I know of.</p> <p>22 - - - - -</p> <p>23 (Thereupon, Deposition Exhibit 36, A</p> <p>24 Document Bates Stamped ORA 00147</p> <p>25 Through ORA 00150, was marked for</p>	<p style="text-align: right;">Page 169</p> <p>1 Q. So he was providing an update,</p> <p>2 sounds like, to the ORA about the lawsuit?</p> <p>3 A. Yes.</p> <p>4 Q. Why would the lobbying firm be</p> <p>5 providing the update; do you know?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you work with Hicks Partners?</p> <p>8 A. No.</p> <p>9 Q. Not at all. They work directly</p> <p>10 with the ORA?</p> <p>11 A. Yes.</p> <p>12 Q. And who is Wayne? Is that Wayne</p> <p>13 Coates, C-O-A-T-E-S, if you look at the first</p> <p>14 page?</p> <p>15 A. Yeah. Wayne Coates. Wait --</p> <p>16 Q. It says Wayne -- "Wayne believes</p> <p>17 the Attorney General" --</p> <p>18 A. It must be Wayne Coates.</p> <p>19 Q. "The Attorney General should take</p> <p>20 the lead on this as far as what the next step</p> <p>21 is." Have you had any discussions with the</p> <p>22 Attorney General's Office about this case?</p> <p>23 A. No.</p> <p>24 Q. Has Mr. Joyce?</p> <p>25 A. I don't know.</p>

43 (Pages 166 - 169)

Page 170

1 Q. Has anyone?

2 A. I don't know.

3 Q. Have you discussed Mr. Wayne's

4 concern about involving the Attorney General

5 with him -- excuse me -- Mr. Coates' concern?

6 A. No.

7 Q. Do you share his view that the

8 Attorney General should take the lead on this?

9 A. No.

10 Q. Why not?

11 A. Because Dave is.

12 Q. Anything other than that?

13 A. No.

14 Q. Now, it next says; "Sandy asked

15 Barb to send a letter to the AG inquiring as to

16 how they will handle this." Is "Sandy" Sandy

17 Barber?

18 A. That's a good guess, yeah. Must

19 be. It must be.

20 Q. Is she a Recorder?

21 A. Yes.

22 Q. Is Barb Sessler a Recorder as well?

23 A. Yes. She was the president that

24 year, I think. No, she wasn't. I'm sorry.

25 Q. Do you know if Barb ever sent a

Page 171

1 letter to the AG?

2 A. I do not know.

3 Q. Have you ever discussed this with

4 Sandy or Barb?

5 A. No, I have not.

6 Q. It next says that "Geauga County

7 was told by their prosecutor not to talk about

8 this." Do you see that?

9 A. Yes.

10 Q. Why did Mr. Joyce tell you not to

11 talk about it?

12 A. It's pending legislation.

13 Q. You mean litigation?

14 A. Litigation.

15 Q. And when did he tell you not to

16 talk about it?

17 A. You know, I don't remember. It had

18 to be between now and last fall.

19 Q. And how did that conversation come

20 up?

21 A. You know, I don't remember.

22 Q. You wrote something to the Tea

23 Party about the litigation, correct?

24 A. Yes.

25 Q. And I think we'll see you sent some

Page 172

1 other e-mails about it as well. So it appears

2 that you weren't following his guidance there?

3 MR. SIEBOTT: Objection.

4 Argumentative.

5 Q. I'm just asking a question. Were

6 you following his guidance when you were

7 talking about MERS?

8 A. Apparently not.

9 Q. And since it's a matter involving

10 the public land records, and you're an elected

11 official, what harm could be done by talking

12 about it in the public, correct?

13 A. I don't know.

14 Q. I agree.

15 - - - - -

16 (Thereupon, Deposition Exhibit 37,

17 An Article From the Cleveland

18 Business Website, Dated October 24,

19 2011, was marked for purposes of

20 identification.)

21 - - - - -

22 Q. I'm handing you what's been marked

23 Exhibit 37, which is a printout of an article

24 from the Cleveland Business website, dated

25 October 24, 2011. And this is about five days

Page 173

1 after that meeting we were just talking about.

2 If you look down towards the bottom

3 there, the paragraph beginning "Mr. Joyce",

4 that's the one I'm going to ask you about.

5 "Mr. Joyce said he has begun talking to other

6 county prosecutors in Northeast Ohio, and he

7 hopes the rest of the 88 counties will join in

8 litigation." Do you see that?

9 A. Yes.

10 Q. So did you know that he was in that

11 process at that time, of talking -- in October,

12 of talking to other counties?

13 A. I don't remember.

14 Q. And have any of the other 88

15 counties joined the lawsuit?

16 A. Not yet, that I know of. Not

17 officially.

18 Q. Have you spoken to any prosecutors

19 of any other counties as to why they have not

20 joined?

21 A. No.

22 Q. Have you spoken to any or

23 communicated with any Recorders about why their

24 prosecutors have not joined?

25 A. I've asked them if they have, but

44 (Pages 170 - 173)

<p style="text-align: right;">Page 174</p> <p>1 that's it.</p> <p>2 Q. You don't know the reasons?</p> <p>3 A. No.</p> <p>4 - - - - -</p> <p>5 (Thereupon, Deposition Exhibit 38, A</p> <p>6 Document Bates Stamped ORA 00656</p> <p>7 Through ORA 00662, was marked for</p> <p>8 purposes of identification.)</p> <p>9 - - - - -</p> <p>10 Q. I'm handing you what's been marked</p> <p>11 Exhibit Number 38, which is Bates numbered ORA</p> <p>12 656 to ORA 662. And does this appear to be the</p> <p>13 minutes from a meeting December 14, 2011 of the</p> <p>14 Legislative Committee of the ORA?</p> <p>15 A. Yes.</p> <p>16 Q. Now, if you go over to page 660, at</p> <p>17 the bottom there's a part that talks about</p> <p>18 MERS. Do you see that at the very bottom</p> <p>19 there?</p> <p>20 A. Yes.</p> <p>21 Q. And then it goes onto the top of</p> <p>22 661. Have you had a chance to read that</p> <p>23 paragraph?</p> <p>24 A. Yes.</p> <p>25 Q. Now, it starts off by someone named</p>	<p style="text-align: right;">Page 176</p> <p>1 A. I do know that.</p> <p>2 Q. It says "Danny". Is that Danny</p> <p>3 Crank?</p> <p>4 A. Yes.</p> <p>5 Q. Which county is he with?</p> <p>6 A. Butler.</p> <p>7 Q. It says "he's not comfortable</p> <p>8 taking a stand against MERS without the backing</p> <p>9 of the prosecutors." Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Have you discussed that view with</p> <p>12 him?</p> <p>13 A. No.</p> <p>14 Q. Not at all?</p> <p>15 A. No.</p> <p>16 Q. Have you discussed the lawsuit with</p> <p>17 Danny Crank at all?</p> <p>18 A. No. Other than to say that it was,</p> <p>19 that it was. That it was created.</p> <p>20 Q. You've not discussed his reluctance</p> <p>21 expressed here with him?</p> <p>22 A. No.</p> <p>23 Q. How soon after the meeting do you</p> <p>24 get the minutes?</p> <p>25 A. It depends. It depends on when</p>
<p style="text-align: right;">Page 175</p> <p>1 Judy Nedwick. Is she a Recorder?</p> <p>2 A. Yes.</p> <p>3 Q. She's on the committee?</p> <p>4 A. Yes.</p> <p>5 Q. She recommended that your committee</p> <p>6 change your next meeting to coincide with the</p> <p>7 prosecutors meeting that was going to take</p> <p>8 place in January, and suggested you could send</p> <p>9 two or three committee members to that meeting.</p> <p>10 And did that, in fact, happen?</p> <p>11 A. No.</p> <p>12 Q. Why is that?</p> <p>13 A. I don't know, because they didn't</p> <p>14 tell me about this until afterwards.</p> <p>15 Q. When you say "tell me about this",</p> <p>16 meaning what?</p> <p>17 A. The meeting. They didn't tell me</p> <p>18 they were going to do this.</p> <p>19 Q. You weren't at this meeting?</p> <p>20 A. No.</p> <p>21 Q. And it does say "excused". On the</p> <p>22 front page it lists you as having been</p> <p>23 "excused".</p> <p>24 But you do know as a fact that</p> <p>25 nobody went to that meeting on the 19th?</p>	<p style="text-align: right;">Page 177</p> <p>1 they --</p> <p>2 Q. A couple weeks?</p> <p>3 A. Yeah.</p> <p>4 Q. When you read that, did you -- why</p> <p>5 didn't you call up Danny to discuss it with</p> <p>6 him?</p> <p>7 A. Why would I? I mean, I've --</p> <p>8 that's his opinion.</p> <p>9 Q. And he's his own Recorder; he can</p> <p>10 do what he sees fit?</p> <p>11 A. Yeah.</p> <p>12 Q. It says; "Sharon Gingerich would</p> <p>13 like to see Zach fight the issue federally."</p> <p>14 A. That did not happen. I never made</p> <p>15 that statement.</p> <p>16 Q. Okay. Any idea how this got into</p> <p>17 the minutes?</p> <p>18 A. I have no idea.</p> <p>19 Q. And who's Zach? He works for Hicks</p> <p>20 Partners?</p> <p>21 A. Yes.</p> <p>22 Q. He is the main lobbyist?</p> <p>23 A. Yes.</p> <p>24 Q. And you never made the statement</p> <p>25 you would like to see them fight the issue</p>

<p style="text-align: right;">Page 178</p> <p>1 federally?</p> <p>2 A. That is correct.</p> <p>3 Q. Who wrote the minutes? Whose job</p> <p>4 is that?</p> <p>5 A. I don't know. Who signed it?</p> <p>6 Joyce Gifford.</p> <p>7 Q. What did you do when you read that</p> <p>8 sentence?</p> <p>9 A. At the next meeting I called, and I</p> <p>10 said in the meeting I never said that. I want</p> <p>11 it out of there.</p> <p>12 Q. And did you get any explanation for</p> <p>13 how it got in there?</p> <p>14 A. They just said it was said.</p> <p>15 Q. It next states that "Robin", and I</p> <p>16 assume that's Robin Edwards? Do you know Robin</p> <p>17 Edwards?</p> <p>18 A. Yes.</p> <p>19 Q. "Questions whether this should be</p> <p>20 an Attorney General issue rather than a class</p> <p>21 action suit." Have you discussed her concern</p> <p>22 with Robin?</p> <p>23 A. No.</p> <p>24 Q. For the same reasons you didn't</p> <p>25 discuss them with Danny?</p>	<p style="text-align: right;">Page 180</p> <p>1 A. Sure. Because at the end it says</p> <p>2 "next meeting February." It's got to be</p> <p>3 January.</p> <p>4 Q. So you think it's mislabeled at the</p> <p>5 top?</p> <p>6 A. Yeah.</p> <p>7 Q. Okay. Got it. Thank you. But</p> <p>8 you're sure you weren't at the December</p> <p>9 meeting?</p> <p>10 A. I'm sure.</p> <p>11 Q. Even though they said you were.</p> <p>12 A. When did they say I was?</p> <p>13 Q. In the first document, it said you</p> <p>14 were -- you had said that Zach should fight it</p> <p>15 federally. But you never made that statement?</p> <p>16 A. No. They said that I -- no. I was</p> <p>17 excused. It didn't say I was at the meeting.</p> <p>18 Q. It said you were excused?</p> <p>19 A. Right.</p> <p>20 - - - - -</p> <p>21 (Thereupon, Deposition Exhibit 40, A</p> <p>22 Document Bates Stamped ORA 00792;</p> <p>23 was marked for purposes of</p> <p>24 identification.)</p> <p>25 - - - - -</p>
<p style="text-align: right;">Page 179</p> <p>1 A. Yes.</p> <p>2 - - - - -</p> <p>3 (Thereupon, Deposition Exhibit 39, A</p> <p>4 Document Bates Stamped ORA 00921</p> <p>5 Through ORA 00923, was marked for</p> <p>6 purposes of identification.)</p> <p>7 - - - - -</p> <p>8 Q. I'm handing you what's been marked</p> <p>9 Exhibit Number 39. It's Bates number ORA 921</p> <p>10 to 923.</p> <p>11 Now, Ms. Gingerich, this purports</p> <p>12 to be minutes of the same meeting of December</p> <p>13 14, 2011. Now you're listed as "present", if</p> <p>14 you look at the first page, not as "excused".</p> <p>15 And the MERS discussion is gone. Do you see</p> <p>16 that?</p> <p>17 A. I've never seen this before.</p> <p>18 Q. So you were not present at the</p> <p>19 meeting?</p> <p>20 A. December 14th, no.</p> <p>21 Q. Any idea why the MERS discussion</p> <p>22 has been deleted?</p> <p>23 A. This must have been January. This</p> <p>24 must be labeled wrong.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 181</p> <p>1 Q. Ms. Gingerich, I'm handing you a</p> <p>2 document that the reporter has marked Exhibit</p> <p>3 40. It's ORA 792. Do you know Mona Losh of</p> <p>4 Allen County?</p> <p>5 A. Yes.</p> <p>6 Q. She's a Recorder?</p> <p>7 A. Yes.</p> <p>8 Q. And she sent a message to Rick and</p> <p>9 Lisa Campbell. Who's Rick Campbell?</p> <p>10 A. He's the president.</p> <p>11 Q. And she asked her "whether the</p> <p>12 Executive Committee has an opinion yet on</p> <p>13 whether my prosecutor should join the MERS</p> <p>14 lawsuit." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And there's an Executive Committee</p> <p>17 of the ORA?</p> <p>18 A. Yes.</p> <p>19 Q. Have they ever issued an opinion as</p> <p>20 to whether individual counties should join the</p> <p>21 lawsuit?</p> <p>22 A. Not that I know of.</p> <p>23 Q. And Mona says, "FYI, he", meaning</p> <p>24 her prosecutor, "doesn't believe the ruling</p> <p>25 will be in our favor." Do you see that?</p>

46 (Pages 178 - 181)

<p style="text-align: right;">Page 182</p> <p>1 A. Yes.</p> <p>2 Q. Have you discussed that position</p> <p>3 with Mona Losh?</p> <p>4 A. I never saw this before.</p> <p>5 Q. Does that concern you, that one of</p> <p>6 the prosecutors believes the ruling will not be</p> <p>7 in your favor?</p> <p>8 A. No.</p> <p>9 Q. And as of today, Allen County has</p> <p>10 not joined your lawsuit, correct?</p> <p>11 A. As far as I know.</p> <p>12 Q. Any conversations with Mona about</p> <p>13 the lawsuit?</p> <p>14 A. No.</p> <p>15 - - - - -</p> <p>16 (Thereupon, Deposition Exhibit 41, A</p> <p>17 Document Bates Stamped ORA 00115,</p> <p>18 was marked for purposes of</p> <p>19 identification.)</p> <p>20 - - - - -</p> <p>21 Q. I'm handing you what's been marked</p> <p>22 as Exhibit Number 41. It's marked ORA 115.</p> <p>23 Again, it's from Mona Losh, Allen County</p> <p>24 Recorder. And she says, "Our prosecutor has</p> <p>25 been asked to join the MERS class action</p>	<p style="text-align: right;">Page 184</p> <p>1 Exhibit Number 42, Ms. Gingerich. It's Bates</p> <p>2 numbered ORA 979 and 965. Do you know Denise</p> <p>3 Goll in the Butler County Recorder's Office?</p> <p>4 A. Yes.</p> <p>5 Q. You met her before?</p> <p>6 A. Yes.</p> <p>7 Q. And do you know who Roger Gates is?</p> <p>8 A. No.</p> <p>9 Q. She says in the first paragraph;</p> <p>10 "It's my understanding that county prosecutors</p> <p>11 are contacting their Recorder to discuss this</p> <p>12 matter." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Did any of the counties call you or</p> <p>15 contact you after their prosecutors contacted</p> <p>16 them?</p> <p>17 A. No.</p> <p>18 Q. None at all?</p> <p>19 A. None at all.</p> <p>20 Q. So they're making their own</p> <p>21 decisions independently?</p> <p>22 A. Yes.</p> <p>23 - - - - -</p> <p>24 (Thereupon, Deposition Exhibit 43, A</p> <p>25 Document Bates Stamped ORA 00100</p>
<p style="text-align: right;">Page 183</p> <p>1 lawsuit." Had she ever discussed that with</p> <p>2 you --</p> <p>3 A. No.</p> <p>4 Q. -- the request to join? And she</p> <p>5 also says; "My prosecutor wanted me to ask you</p> <p>6 what position the ORA is taking on the issue."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And the ORA it sounds like has not</p> <p>10 taken a position on the lawsuit as of right</p> <p>11 now?</p> <p>12 A. As far as I know, yes.</p> <p>13 Q. Have you asked the ORA to take a</p> <p>14 position in favor of the lawsuit?</p> <p>15 A. No.</p> <p>16 Q. Why not?</p> <p>17 A. It just didn't dawn on me to do it,</p> <p>18 to ask them.</p> <p>19 - - - - -</p> <p>20 (Thereupon, Deposition Exhibit 42, A</p> <p>21 Document Bates Stamped ORA 00979 and</p> <p>22 ORA 00965, was marked for purposes</p> <p>23 of identification.)</p> <p>24 - - - - -</p> <p>25 Q. I'm handing you what's been marked</p>	<p style="text-align: right;">Page 185</p> <p>1 Through ORA 00104, was marked for</p> <p>2 purposes of identification.)</p> <p>3 - - - - -</p> <p>4 Q. I'm handing you what's been marked</p> <p>5 Exhibit 43. It's ORA 100 to 104. Ms.</p> <p>6 Gingerich, these appear to be minutes of the</p> <p>7 ORA Executive Committee meeting on December</p> <p>8 14th. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. If you turn over to page 3 at the</p> <p>11 bottom, it says -- it talks about how "the</p> <p>12 Legislative Committee will be meeting again on</p> <p>13 January 19th in conjunction with a meeting</p> <p>14 scheduled with the Prosecuting Attorneys</p> <p>15 Association." Do you see that, the first</p> <p>16 sentence of the last paragraph?</p> <p>17 A. Page 4?</p> <p>18 (Thereupon, a recess was taken.)</p> <p>19 MR. YENOUSKAS: Back on the record.</p> <p>20 Q. Okay. We were talking about</p> <p>21 Exhibit Number 43, Ms. Gingerich, and</p> <p>22 specifically page 3. Do you see that paragraph</p> <p>23 about --</p> <p>24 A. Yes.</p> <p>25 Q. -- some MERS issues, and your</p>

47 (Pages 182 - 185)



Page 186

1 lawsuit. It says there, it talks about "Danny"  
 2 again. I assume that's Danny Crank?  
 3 A. Yes.  
 4 Q. It says; "Danny wanted to make sure  
 5 the Prosecuting Attorneys Association  
 6 understood this suit was not being driven by  
 7 the Recorders Association." Do you know why  
 8 Danny had that concern?  
 9 A. No.  
 10 Q. Have you discussed that concern  
 11 with him?  
 12 A. No.  
 13 Q. It sounds as if he's reluctant to  
 14 have the Recorders Association endorse the  
 15 lawsuit, correct?  
 16 A. I don't know what his motivation  
 17 was.  
 18 Q. It was just different than yours in  
 19 some respects? Different than your motivation,  
 20 and you're in favor of the lawsuit? You joined  
 21 the lawsuit?  
 22 A. He doesn't -- he just says he  
 23 doesn't want the association to drive it.  
 24 Q. And why would the Association of  
 25 the County Recorders not be driving a lawsuit

Page 187

1 that might possibly benefit the Recorders?  
 2 A. I don't know.  
 3 Q. You don't know? You have no idea?  
 4 A. Because it's an association.  
 5 Q. Well, aren't they there to advance  
 6 the interest of the members?  
 7 A. They're to educate, and do a list  
 8 of other things, yes.  
 9 Q. But through legislation try to  
 10 advance the interests, right?  
 11 A. I don't know.  
 12 Q. You don't know. Okay.  
 13 - - - - -  
 14 (Thereupon, Deposition Exhibit 44, A  
 15 Document Bates Stamped GCO-000003  
 16 Through GCO-000005, was marked for  
 17 purposes of identification.)  
 18 - - - - -  
 19 Q. I'm handing you what's been marked  
 20 Exhibit Number 44. It's Bates labeled GCO-3  
 21 through GCO-5. Do you see this is a memorandum  
 22 from Mr. Jones to Ohio county prosecuting  
 23 attorneys about the case?  
 24 A. Joyce.  
 25 Q. Or Mr. Joyce?

Page 188

1 A. Yes.  
 2 Q. Did you see a draft of this memo  
 3 before it went out?  
 4 A. No.  
 5 Q. Did he tell you he was going to be  
 6 sending the memo before it went out?  
 7 A. No.  
 8 Q. Have you seen it since January 6th  
 9 and before today?  
 10 A. No.  
 11 Q. So you don't know whether any of  
 12 the statements in the memo are accurate or not?  
 13 A. No. I don't know.  
 14 - - - - -  
 15 (Thereupon, Deposition Exhibit 45, A  
 16 Document Bates Stamped ORA 01062  
 17 Through ORA 01063, was marked for  
 18 purposes of identification.)  
 19 - - - - -  
 20 Q. I'm handing you what's been marked  
 21 Exhibit 45. It's ORA 1062 to ORA 1063. This  
 22 is the ORA Executive Committee meeting minutes  
 23 for January 6, 2012. At the very bottom there,  
 24 the second -- it's really the last, or second  
 25 to last paragraph. It says; "The Legislative

Page 189

1 Committee Chair or his rep will meet with the  
 2 Ohio Prosecuting Attorneys Association on  
 3 January 19th concerning the MERS suit." And  
 4 this was just 13 days before that meeting.  
 5 You're still sure that you never went to that  
 6 meeting?  
 7 A. I'm sure.  
 8 Q. Was there an affirmative reason why  
 9 the Legislative Committee decided not to go?  
 10 A. I don't remember. It was -- I just  
 11 don't remember.  
 12 Q. You're on the Legislative Committee  
 13 though?  
 14 A. Yes. But I don't remember. It  
 15 had -- I don't think they met that day. I  
 16 don't think the prosecutors met that day, or  
 17 something like that.  
 18 Q. You're just not really sure?  
 19 A. I'm not really sure.  
 20 Q. You know that the Legislative  
 21 Committee did not meet with the prosecutors  
 22 though?  
 23 A. I'm positive they did not meet.  
 24 Q. Okay. Have they met with them  
 25 since January 19, 2012?

<p style="text-align: right;">Page 190</p> <p>1 A. Not that they told me about.</p> <p>2 Q. But you're on the committee; you</p> <p>3 would know?</p> <p>4 A. No. The committee has not, no.</p> <p>5 - - - - -</p> <p>6 (Thereupon, Deposition Exhibit 46, A</p> <p>7 Document Bates Stamped HP00132, was</p> <p>8 marked for purposes of</p> <p>9 identification.)</p> <p>10 - - - - -</p> <p>11 Q. I'm handing you what's been marked</p> <p>12 Defendants' Exhibit 46, Ms. Gingerich. It's</p> <p>13 Bates stamped HP00132, and it's an e-mail</p> <p>14 exchange between Tammy Barger -- do you know</p> <p>15 Tammy?</p> <p>16 A. Yes.</p> <p>17 Q. And Zach Holzapfel? Do you know</p> <p>18 Zach?</p> <p>19 A. Yes.</p> <p>20 Q. And it has to do with the lawsuit.</p> <p>21 And Tammy writes to Zach in February of this</p> <p>22 year, that -- this is at the bottom -- her</p> <p>23 prosecutor received a letter asking her if</p> <p>24 Mercer wants to be included in the class</p> <p>25 action. "I had given her the copy of the</p>	<p style="text-align: right;">Page 192</p> <p>1 of?</p> <p>2 A. I believe now -- with our lawsuit,</p> <p>3 no.</p> <p>4 Q. What about before your lawsuit?</p> <p>5 A. I think he wanted to, but I don't</p> <p>6 know what the details were. I did hear his</p> <p>7 name.</p> <p>8 Q. Did he ever call you to discuss the</p> <p>9 case?</p> <p>10 A. No.</p> <p>11 Q. He never communicated directly with</p> <p>12 you?</p> <p>13 A. No.</p> <p>14 Q. How did you hear about this;</p> <p>15 through other Recorders?</p> <p>16 A. I think so. I think Frank talked</p> <p>17 about it.</p> <p>18 Q. Frank?</p> <p>19 A. Suponcic. From Lake County.</p> <p>20 Q. Spoke to you about that?</p> <p>21 A. Yes.</p> <p>22 Q. And what do you remember about</p> <p>23 those conversations?</p> <p>24 A. Just that he wanted to be involved,</p> <p>25 and basically that was it. And I don't know</p>
<p style="text-align: right;">Page 191</p> <p>1 information that we received in one of our</p> <p>2 meetings. She called me to ask if I wanted her</p> <p>3 to pursue it. I said I would get with you to</p> <p>4 see what others had done and if you thought it</p> <p>5 would be a good idea." And Zach writes back;</p> <p>6 "We're still trying to wrap our head around the</p> <p>7 direction to go. I've asked for a meeting with</p> <p>8 the Prosecutors Association. I believe we need</p> <p>9 to work in consultation, and the determination</p> <p>10 to add a respective county to the suit is and</p> <p>11 should be determined by the county elected</p> <p>12 officials." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And do you agree with that</p> <p>15 statement, with Zach's statement?</p> <p>16 A. Yes.</p> <p>17 Q. Who is Pat Perotti?</p> <p>18 A. A Lake County attorney.</p> <p>19 Q. And what involvement has he had</p> <p>20 with these issues?</p> <p>21 A. In --</p> <p>22 Q. These MERS issues, and the lawsuit</p> <p>23 issues.</p> <p>24 A. I don't know.</p> <p>25 Q. No involvement that you're aware</p>	<p style="text-align: right;">Page 193</p> <p>1 how, what extent.</p> <p>2 - - - - -</p> <p>3 (Thereupon, Deposition Exhibit 47, A</p> <p>4 Document Bates Stamped HP00184, was</p> <p>5 marked for purposes of</p> <p>6 identification.)</p> <p>7 - - - - -</p> <p>8 Q. I'm handing you what's been marked</p> <p>9 Defendants' Exhibit 47. It's Bates marked</p> <p>10 HP00184.</p> <p>11 A. Yes.</p> <p>12 Q. Does this help you remember</p> <p>13 Mr. Perotti?</p> <p>14 A. Yes.</p> <p>15 Q. Tell me what this helps you</p> <p>16 remember.</p> <p>17 A. Yes. Yes. Okay. I think he</p> <p>18 wanted to start his own lawsuit against MERS.</p> <p>19 If I remember right, yes.</p> <p>20 Q. So you got some message from</p> <p>21 Mr. Joyce, it sounds like, that you've copied</p> <p>22 here. You said "this is from my prosecutor",</p> <p>23 and you put in quotes.</p> <p>24 A. Yeah.</p> <p>25 Q. Okay. And what did you do in</p>

<p style="text-align: right;">Page 194</p> <p>1 response to Mr. Joyce's e-mail?</p> <p>2 A. What e-mail?</p> <p>3 Q. Well, he sent you what you have</p> <p>4 quoted there, right, in quotation marks? He</p> <p>5 sent you some message?</p> <p>6 A. I sent this to Barb.</p> <p>7 Q. Right. And in what capacity, just</p> <p>8 as another Recorder?</p> <p>9 A. Yeah.</p> <p>10 Q. And did you take any other actions?</p> <p>11 A. No.</p> <p>12 Q. Did you discuss this further with</p> <p>13 Barb?</p> <p>14 A. Not that I recall.</p> <p>15 Q. What did you do to try to keep</p> <p>16 your -- Mr. Joyce says; "Please keep your</p> <p>17 Recorders together with us." What did you do</p> <p>18 to try to keep the Recorders together with you?</p> <p>19 A. You know, I really didn't talk to</p> <p>20 anybody. I just gave the presentation at the</p> <p>21 conference that said we were, you know, we had</p> <p>22 filed the lawsuit.</p> <p>23 - - - - -</p> <p>24 (Thereupon, Deposition Exhibit 48, A</p> <p>25 Document Bates Stamped GCR-001306</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. You don't recall what it was?</p> <p>2 A. Well, we were asked to do some</p> <p>3 research on mortgages. We were asked by our</p> <p>4 prosecutor.</p> <p>5 Q. I'm just trying to get a sense of</p> <p>6 what specifically you looked at.</p> <p>7 A. I did not do research. The staff</p> <p>8 did.</p> <p>9 Q. And do you know what those topics</p> <p>10 were?</p> <p>11 MR. SIEBOTT: Objection. That's</p> <p>12 trial preparation.</p> <p>13 Q. Who on your staff did the research?</p> <p>14 A. Jared.</p> <p>15 Q. Now, on the second page you talk</p> <p>16 about how you've met with OAITA, which you</p> <p>17 mentioned earlier, the Ohio Association of</p> <p>18 Independent Title Agents, and you talk about an</p> <p>19 Amicus brief that had been filed in a similar</p> <p>20 case in October. And you said; "I have a copy</p> <p>21 of it, and I will send it to you individually</p> <p>22 and not over ListServe." Why did you not want</p> <p>23 to send a brief over ListServe?</p> <p>24 A. ListServe does not take</p> <p>25 attachments.</p>
<p style="text-align: right;">Page 195</p> <p>1 Through GCR-001307, was marked for</p> <p>2 purposes of identification.)</p> <p>3 - - - - -</p> <p>4 Q. Ms. Gingerich, I'm handing you</p> <p>5 what's been marked Exhibit 48. It's GCR-1306</p> <p>6 to 1307. Have you seen this document before?</p> <p>7 A. Yes.</p> <p>8 Q. And did you draft this document?</p> <p>9 A. Yes.</p> <p>10 Q. Is this the presentation you gave</p> <p>11 to the County Recorders?</p> <p>12 A. Yes.</p> <p>13 Q. So I did it backwards. This is</p> <p>14 back from October?</p> <p>15 A. Yes. Or November.</p> <p>16 Q. Now, it says there in the middle</p> <p>17 you talked to your staff, and you did some</p> <p>18 preliminary research. Do you remember what the</p> <p>19 preliminary research you did was?</p> <p>20 A. We just -- we did some things</p> <p>21 for -- looked at some records.</p> <p>22 Q. What was that? What did that</p> <p>23 involve?</p> <p>24 A. It was for whatever we were asked</p> <p>25 to do.</p>	<p style="text-align: right;">Page 197</p> <p>1 Q. I see. So to send it to someone it</p> <p>2 had to go direct e-mail?</p> <p>3 A. Yes.</p> <p>4 Q. It says that "Robert Holman said</p> <p>5 there are local and national organizations 100</p> <p>6 percent in support of our suit." How are they</p> <p>7 supporting your suit?</p> <p>8 A. Just by saying they're in support</p> <p>9 of our suit.</p> <p>10 Q. Do you know if he's contributed</p> <p>11 financially to the suit?</p> <p>12 A. Not that I know of. I mean --</p> <p>13 Q. Have you had meetings with him</p> <p>14 about these issues?</p> <p>15 A. I did meet with him, yes.</p> <p>16 Q. When was that?</p> <p>17 A. You know, I don't remember when it</p> <p>18 was. I think it was before the first of the</p> <p>19 year.</p> <p>20 Q. And where was that meeting?</p> <p>21 A. In my office.</p> <p>22 Q. Tell me about that meeting.</p> <p>23 A. I told him we could not discuss</p> <p>24 MERS, but he talked about some other issues</p> <p>25 that they had been lobbying in Congress that</p>

50 (Pages 194 - 197)

<p style="text-align: right;">Page 198</p> <p>1 were similar. And I didn't follow a lot of  2 what he was saying, but --  3 Q. Other than that meeting, has he  4 supported the lawsuit in any other way, other  5 than saying he's in favor of it?  6 A. I think they wrote a white paper.  7 Q. And then you talk about how "my  8 prosecutor, Mr. Joyce, will be speaking about  9 MERS to all of your prosecutors at their annual  10 meeting on November 30th. He has copied your  11 PAs. If you're interesting in doing something  12 about MERS, please talk to your prosecutors  13 before the 30th."  14 Do you know to what extent other  15 Recorders had talked to their prosecutors  16 before that meeting?  17 A. I do not know.  18 -----  19 (Thereupon, Deposition Exhibit 49, A  20 Document Bates Stamped GCR-001518  21 Through GCR-001520, was marked for  22 purposes of identification.)  23 -----  24 Q. Exhibit 49. Ms. Gingerich, I'm  25 handing you a document marked Exhibit 49. It's</p>	<p style="text-align: right;">Page 200</p> <p>1 identification.)  2 -----  3 Q. Exhibit 50. I'm handing you what's  4 been marked Exhibit 50, Bates labeled GCR-1910.  5 Have you had a chance to look that over?  6 A. Yes.  7 Q. And who is Barb Sessler again?  8 A. She is a Recorder.  9 Q. And she's saying that she's  10 informing the members about the lawsuit,  11 correct?  12 A. Yes.  13 Q. And she said; "A copy will soon be  14 available under the ORA member section." She  15 also says; "Due to the sensitive nature of this  16 action, it is vital that we do not," bold and  17 capital, "discuss this on the ListServe."  18 Did you ask Barb to include that  19 direction to people?  20 A. I said I didn't think it would be  21 wise to put on it the ListServe, no.  22 Q. And why is that?  23 A. Because it's just not -- it's  24 pending litigation.  25 Q. Any other reason?</p>
<p style="text-align: right;">Page 199</p> <p>1 Bates labeled GCR-1518 to 1520. This looks  2 like an e-mail you wrote to Elizabeth Goodwin?  3 A. Yes.  4 Q. Who is Elizabeth Goodwin?  5 A. She works for the Attorney General.  6 Q. Why did you send this e-mail?  7 A. Because I met her at a function,  8 and I wanted to make sure she knew about the  9 lawsuit.  10 Q. And you said the first paragraph,  11 that exact thing; "I want to make sure the AG's  12 office has heard about our class action  13 lawsuit, and hopefully to know that he is  14 behind this effort." Do you see that?  15 A. Yes.  16 Q. Did you ever get a response from  17 Ms. Goodwin?  18 A. I did not.  19 Q. And has the Attorney General joined  20 your lawsuit?  21 A. No.  22 -----  23 (Thereupon, Deposition Exhibit 50, A  24 Document Bates Stamped GCR-001910,  25 was marked for purposes of</p>	<p style="text-align: right;">Page 201</p> <p>1 A. No.  2 -----  3 (Thereupon, Deposition Exhibit 51, A  4 Document Bates Stamped GCR-003077,  5 was marked for purposes of  6 identification.)  7 -----  8 Q. I'm handing you what's been marked  9 Exhibit 51. It's GCR-3077. Have you seen this  10 document before?  11 A. Yes.  12 Q. Did you draft this?  13 A. Yes.  14 Q. And when did you draft this?  15 A. I don't remember. It's since  16 October 13th.  17 Q. And who did you send this to?  18 A. Zach Holzapfel.  19 Q. And why did you send it to Zach?  20 A. Because he asked me to.  21 Q. Do you know what Zach did with this  22 document after you sent it to him?  23 A. I do not.  24 Q. In the last paragraph you talk  25 about various folks that have been apprised of</p>

51 (Pages 198 - 201)

<p style="text-align: right;">Page 202</p> <p>1 the pending legislation. This is this Corker  2 legislation. And about the lawsuit. And you  3 say -- at the very last sentence you say; "The  4 Ohio Revised Code in relation to mortgage  5 recording should be strengthened by  6 legislation." What did you mean by that?  7 A. Well, I thought that since it was  8 being circumvented, or because it wasn't  9 being -- because assignments weren't being  10 recorded, it should be.  11 Q. Should be made more clear?  12 A. No. I don't know. It's just --  13 something should have been done so that you  14 wouldn't do that.  15 Q. How would the code be strengthened,  16 in your opinion?  17 A. I don't know.  18 Q. You're on the Legislative  19 Committee, right?  20 A. Yes.  21 Q. And Zach is the lobbyist?  22 A. Yes.  23 Q. So I assume you're saying this to  24 him for purpose of advancing your interests and  25 ORA's interests in Ohio?</p>	<p style="text-align: right;">Page 204</p> <p>1 Through GCR-001878, was marked for  2 purposes of identification.)  3 - - - - -  4 Q. I'm handing you what's been marked  5 Exhibit 52. It's GCR-1817 -- excuse me. It's  6 GCR-1877 to 1878. Have you had a chance to  7 look this over?  8 A. Yes.  9 Q. What is this document?  10 A. This is notes to myself.  11 Q. Okay. And roughly when would you  12 have made these notes?  13 A. You know, between now and last  14 October.  15 Q. And is this for purposes of giving  16 a presentation again?  17 A. It had to be after November 15th.  18 I'm sorry. A presentation -- I probably took  19 some things out of here for presentation, yes.  20 Q. So is the purpose just to gather  21 all your thoughts on this specific issue in one  22 place?  23 A. Yes. Yes.  24 Q. Turning over to the second page,  25 you talk about legislation, 6-A. You say "what</p>
<p style="text-align: right;">Page 203</p> <p>1 A. No. For the clarity -- for the  2 purpose of clarity of title.  3 Q. Right. But he's hired to try to  4 enact legislative changes on behalf of your  5 county and other counties, correct?  6 A. Correct.  7 Q. So when you told him, when you told  8 Zach that the Ohio Revised Code in relation to  9 mortgage recording should be strengthened, how  10 did you want it strengthened?  11 A. So that this isn't done anymore.  12 So that assignments are recorded.  13 Q. Do you have any specific changes  14 that you proposed to him?  15 A. No.  16 Q. Did Mr. Joyce propose any to him?  17 A. Not that I know of.  18 Q. Have you discussed this issue with  19 Mr. Joyce at all?  20 A. No.  21 Q. Other members of the committee?  22 A. No.  23 - - - - -  24 (Thereupon, Deposition Exhibit 52, A  25 Document Bates Stamped GCR-001877</p>	<p style="text-align: right;">Page 205</p> <p>1 would our legislation be?" And you say, "is  2 our current code strong enough to address what  3 MERS has been doing? Can we create something  4 to enforce/strengthen the code?" Do you see  5 that?  6 A. Yes.  7 Q. Did you discuss that concern with  8 anyone?  9 A. No.  10 - - - - -  11 (Thereupon, Deposition Exhibit 53, A  12 Document Bates Stamped GCR-002411  13 Through GCR-002417, was marked for  14 purposes of identification.)  15 - - - - -  16 Q. I'm handing you what's been marked  17 Exhibit 53. It's Bates labeled GCR 2411 to  18 2417.  19 MR. YENOUSKAS: Why don't we take a  20 break for five minutes. I'm just about done,  21 and if I can check my notes, I'm just about  22 done.  23 (Thereupon, a recess was taken.)  24 MR. YENOUSKAS: Back on the record.  25 Q. Ms. Gingerich, we talked about</p>

52 (Pages 202 - 205)

<p style="text-align: right;">Page 206</p> <p>1 Defendants' Exhibit 53. What is that document?</p> <p>2 A. This was one that's notes that I</p> <p>3 pulled for the Tea Party.</p> <p>4 Q. I'm sorry?</p> <p>5 A. This was notes to myself for the</p> <p>6 Tea Party that I pulled from here.</p> <p>7 Q. Okay. Did you give this speech?</p> <p>8 A. No. I drew from this.</p> <p>9 Q. On page 2413 you've got some</p> <p>10 statements about MERS there in bullet points?</p> <p>11 A. Yes.</p> <p>12 Q. "Robo-signing is a product of MERS.</p> <p>13 MERS has no penalty to its members for the</p> <p>14 inaccurate entry of mortgage assignment</p> <p>15 information." Where did you get that</p> <p>16 information from?</p> <p>17 A. OAITA paperwork.</p> <p>18 Q. So it's all from Mr. Holman?</p> <p>19 A. Yes. And, again, it was too wordy,</p> <p>20 so I didn't use it.</p> <p>21 Q. Page 2414, you say in one of the</p> <p>22 bullet points there, the second to last bullet</p> <p>23 point; "MERS has jeopardized the sanctity of</p> <p>24 the mortgage foreclosure process and inserted</p> <p>25 uncertainty in the mortgage finance process."</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. And do you know of any title</p> <p>2 insurance companies that have refused to insure</p> <p>3 MERS loans?</p> <p>4 A. I do not know of any, no.</p> <p>5 Q. And do you know of any borrowers</p> <p>6 that have refused to accept funds from a lender</p> <p>7 because MERS is listed as the mortgagee?</p> <p>8 A. I do not know.</p> <p>9 Q. So you have no specific basis for</p> <p>10 your statements, do you?</p> <p>11 A. No.</p> <p>12 - - - - -</p> <p>13 (Thereupon, Deposition Exhibit 54, A</p> <p>14 Document Bates Stamped GCR-003107</p> <p>15 Through GCR-003108, and GCR-003049</p> <p>16 Through GCR-003053, was marked for</p> <p>17 purposes of identification.)</p> <p>18 - - - - -</p> <p>19 Q. I'm handing you what's been marked</p> <p>20 Exhibit 54, Ms. Gingerich. It's Bates labeled</p> <p>21 GCR-3107 to 3108, and 3049 to 3053.</p> <p>22 What is this document?</p> <p>23 A. This is a letter to Dave from</p> <p>24 OAITA.</p> <p>25 Q. Dave Joyce?</p>
<p style="text-align: right;">Page 207</p> <p>1 Can you tell me what the basis is</p> <p>2 for that statement?</p> <p>3 A. Because you don't have clear chain</p> <p>4 of title.</p> <p>5 Q. How has MERS jeopardized the</p> <p>6 sanctity of the mortgage foreclosure process?</p> <p>7 A. Because some mortgages can't be</p> <p>8 foreclosed on, because they can't find out who</p> <p>9 owns it.</p> <p>10 Q. And what's your expertise in that</p> <p>11 area?</p> <p>12 A. I don't have any expertise.</p> <p>13 Q. And what do you know about the</p> <p>14 mortgage finance process?</p> <p>15 A. You buy a house and you mortgage</p> <p>16 it. You borrow money, you mortgage it.</p> <p>17 Q. How do you know that MERS has</p> <p>18 created uncertainty in the mortgage finance</p> <p>19 process?</p> <p>20 A. Because you can't trace the chain</p> <p>21 of title.</p> <p>22 Q. And how do you know that's created</p> <p>23 uncertainty? Do you know any lenders that have</p> <p>24 refused to make loans because of MERS?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 209</p> <p>1 A. Dave Joyce.</p> <p>2 Q. Okay. And this was in your files.</p> <p>3 Did Mr. Joyce give you a copy of this?</p> <p>4 A. Yes.</p> <p>5 Q. And I assume you had this before</p> <p>6 your meeting with Mr. Holman?</p> <p>7 A. Yes.</p> <p>8 Q. And is this his white paper that's</p> <p>9 attached about MERS?</p> <p>10 A. No.</p> <p>11 Q. What is the attachment?</p> <p>12 A. It's the National Association of</p> <p>13 Independent --</p> <p>14 Q. And is he associated with that</p> <p>15 group as well?</p> <p>16 A. I'm not sure.</p> <p>17 Q. If you look at his letter, it sort</p> <p>18 of appears to refer to them interchangeably.</p> <p>19 OAITA and NAILTA. You don't know?</p> <p>20 A. No. I don't know.</p> <p>21 Q. Now, Ms. Gingerich, you know a</p> <p>22 lawsuit was filed by Brown County, Ohio about</p> <p>23 this issue?</p> <p>24 A. I do.</p> <p>25 Q. Who is the prosecutor of Brown</p>

Page 210

1 County?

2 A. I do not know.

3 Q. Do you know who the Recorder is?

4 A. Not without my book, no.

5 Q. Is it Ms. Little?

6 A. I don't know.

7 Q. It's -- that's the prosecutor.

8 Sorry. What did you do when you became aware

9 that Brown County filed a lawsuit on the same

10 issue?

11 A. Nothing.

12 Q. Have you -- nothing? You didn't

13 reach out to the Brown County prosecutor to

14 discuss it?

15 A. No. No.

16 Q. Would you rather have them be part

17 of your suit than filing a competing suit?

18 A. I -- I don't know. I mean, it's

19 not up to me.

20 Q. And you have made no attempt to

21 talk to them about these issues at all?

22 A. No. No.

23 - - - - -

24 (Thereupon, Deposition Exhibit 55, A

25 Document Bates Stamped GCR-001521

Page 211

1 Through GCR-001522, GCR-001524,

2 GCR-001508 Through GCR-001520, and

3 GCR-001479, GCR-001467, GCR-001449

4 and GCR-001450, was marked for

5 purposes of identification.)

6 - - - - -

7 Q. I'm handing you what's been marked

8 as Exhibit Number 55. It's Bates numbered

9 GCR-1521 through 1522, and then 1524, 1508,

10 through 1520, and then 1479, 1467, 1449 and

11 1450. A group exhibit. The first two pages

12 are an e-mail from Mr. Holman to Christopher

13 Peterson at, looks like a law school in Utah.

14 And he talks about your lawsuit in Ohio, and

15 stating he had met with you. And he says, "I

16 was wondering if it might be possible to

17 arrange a teleconference meeting between Ms.

18 Gingerich and the Geauga County prosecutor,

19 David Joyce." Do you see that at the bottom?

20 A. I do.

21 Q. And did that teleconference ever

22 take place?

23 A. It did not.

24 Q. Did you ever have any meetings with

25 Mr. Peterson?

Page 212

1 A. No.

2 Q. Any e-mail exchanges with him?

3 A. No.

4 Q. Has Mr. Joyce?

5 A. I don't know.

6 MR. YENOUSKAS: I have nothing

7 further. Pass the witness.

8 EXAMINATION OF SHARON GINGERICH

9 BY MR. BROCHIN:

10 Q. Good afternoon, Ms. Gingerich. My

11 name is Bobby Brochin. I represent two of the

12 defendants. One is MERSCORP Holdings, Inc.,

13 which I'll refer to as "MERSCORP", and the

14 other one is Mortgage Electronic Registration

15 Systems, Inc., which we'll refer to as "MERS".

16 Those are two defendants that have been named

17 in the lawsuit. And I want to -- before I ask

18 you some questions to follow-up on what

19 Mr. Yenouskas asked you, I just wanted to get

20 some understanding of some of the terms that

21 you were using.

22 Now, you talked about in your

23 testimony a note, or a promissory note. Do you

24 know what a promissory note is?

25 A. Just a note signed that says you

Page 213

1 owe money.

2 Q. And then you talked about a

3 mortgage. Do you know what a mortgage is?

4 A. It's that you owe money.

5 Q. Do you understand a mortgage to be

6 a different instrument than a note?

7 A. Yes.

8 Q. Do you understand a mortgage to be,

9 and have a different purpose than a note?

10 A. No.

11 Q. Do you understand that a note and a

12 mortgage are the same purpose?

13 A. Yes.

14 Q. Do you understand a mortgage and a

15 note as a document that's used interchangeably?

16 A. Is it? I don't know.

17 Q. Do you understand what the word

18 "mortgagee" means?

19 A. Yes.

20 Q. What does the word "mortgagee"

21 mean?

22 A. The person who is giving the money.

23 Q. And do you understand that there

24 are entities or persons who can have liens on

25 properties in Geauga County?

Page 214

1 A. Yes.  
 2 Q. And what would you refer to those  
 3 persons or entities as? I'll ask it -- if one  
 4 has a lien on property, what would you refer to  
 5 that person or entity as?  
 6 A. I can't tell you at the moment.  
 7 Q. You don't know?  
 8 A. It's escaping me. I don't  
 9 remember.  
 10 Q. I'm sorry?  
 11 A. I'm trying to remember. I can't.  
 12 Q. So if MERS is listed as the  
 13 mortgagee on a mortgage, it would be your  
 14 understanding that one owes money to MERS;  
 15 someone owes money to MERS?  
 16 A. Yes.  
 17 Q. And if MERS is on a promissory  
 18 note, you would then understand that somebody  
 19 owes money to MERS?  
 20 A. If they were the one receiving the  
 21 money, yeah.  
 22 Q. Well, if --  
 23 A. If they were the one --  
 24 Q. If MERS was the name on the note,  
 25 would that mean that the money would be owed to

Page 215

1 MERS if they were named on the promissory note?  
 2 A. If it said that they were owed  
 3 money.  
 4 Q. And so when you refer to owning the  
 5 mortgage, remember you talked a little bit  
 6 about owning the mortgage, what was that  
 7 referring to? If one owns the mortgage, what  
 8 does one own when they own the mortgage?  
 9 A. They're the one that's supposed to  
 10 be paid.  
 11 Q. And back to my follow-up question  
 12 then. Where would the entity be listed that  
 13 had a lien on the property? I'm going to ask  
 14 it differently.  
 15 Is the person who has the lien on  
 16 the property the same person who is owed the  
 17 money?  
 18 A. Not necessarily.  
 19 Q. They can be different?  
 20 A. Yes.  
 21 Q. You can owe money to one person,  
 22 yet another entity or person can have a lien on  
 23 the property?  
 24 A. Correct.  
 25 Q. What is the document that

Page 216

1 establishes the person that has the lien on the  
 2 property?  
 3 A. The lien.  
 4 Q. Now, you mentioned in your office,  
 5 I believe, that you have categories of  
 6 documents that are subjected to recording. Do  
 7 you recall that?  
 8 A. Yes.  
 9 Q. And do you have a list somewhere of  
 10 those categories that are subject to recording?  
 11 A. Yes.  
 12 Q. And where is that list?  
 13 A. On my website.  
 14 Q. So if I go to your website there  
 15 would be a complete list of all the categories  
 16 for documents for which you accept for  
 17 recording?  
 18 A. Correct.  
 19 Q. And is "mortgages" one of those  
 20 categories?  
 21 A. Yes.  
 22 Q. And when one records a mortgage,  
 23 what do you list as the mortgagee? Who do you  
 24 list as the mortgagee? The entity on the  
 25 mortgage?

Page 217

1 A. Yes.  
 2 Q. So the mortgage that Mr. Yenouskas  
 3 showed you --  
 4 MR. BROCHIN: Perhaps, Christian,  
 5 if you don't mind placing it in front of the  
 6 witness.  
 7 MR. YENOUSKAS: 31. Something like  
 8 that.  
 9 Q. That's Exhibit Number 31 in front  
 10 of you. That's the MERS mortgage, if you will,  
 11 that Mr. Yenouskas asked you some questions  
 12 about. If that's brought to your office for  
 13 recording, who does your office list as the  
 14 mortgagee?  
 15 A. The person borrowing the money  
 16 would be Jill Kennedy.  
 17 Q. My question though is when that  
 18 mortgage is proffered for recording, and you  
 19 record it in your office, who does your office  
 20 list as the mortgagee?  
 21 A. The person receiving the money.  
 22 Jill Kennedy. I'm sorry. Wait a minute. I  
 23 see what you're saying. MERS would be the  
 24 lender. Jill would be the borrower. So she's,  
 25 so, yeah. She would be the mortgagee, I think.



Page 218

1 Yeah.

2 Q. So just so I'm clear on my

3 question, and therefore clear on your answer,

4 when that Exhibit 31 is brought to your office

5 for recording, and your office records it, who

6 in that example would your office list on the

7 public records as the mortgagee?

8 A. I think it would be Jill.

9 Q. Jill?

10 A. Kennedy.

11 Q. Now, you read, I believe, the fact

12 that that document says that MERS is the

13 mortgagee?

14 A. Okay. Then it would be MERS.

15 Q. Well, that's what the document

16 says. I just want to know what your office

17 lists --

18 A. I would need to see -- I'm sorry.

19 But I would need to see that screen in front of

20 it, and they would be in the number 1 position,

21 and the borrower would be the number 2.

22 Q. Now, you also used the phrase

23 "chain of title." Do you remember that phrase?

24 A. Yes.

25 Q. Now, were you referring to title in

Page 219

1 the property when you used the term "chain of

2 title"?

3 A. Title in who owns the property.

4 Who owns the mortgage.

5 Q. Is there a difference as to who

6 owns the mortgage as compared to who owns the

7 property?

8 A. There shouldn't be.

9 Q. So in your mind the owner of the

10 mortgage should be the owner of the property?

11 A. Oh, no. No. The owner of the

12 mortgage is the one loaning the money to the

13 person who owns the property.

14 Q. But you did say to me that the

15 person who has the mortgage or the lien could

16 be a person different than the person who

17 owns -- who is owed the money, correct?

18 A. Right.

19 Q. So when you're talking about "chain

20 of title", you're not talking about who owns

21 the property, correct?

22 A. No. I'm talking about who owns the

23 mortgage.

24 Q. So when you complain that MERS has

25 clouded the chain of title, you're not

Page 220

1 complaining about the chain of title as to who

2 owns the property?

3 A. No.

4 Q. So you don't believe that MERS has

5 caused any confusion on who owns chain of title

6 to the property?

7 A. Well, no. No.

8 Q. Your complaint is that MERS causes

9 confusion to who causes -- causes confusion on

10 the chain of who owns the mortgage?

11 A. Yes.

12 Q. And who owns the mortgage is

13 usually referred to as the "mortgagee"?

14 A. Okay.

15 Q. Do you agree with that?

16 A. Okay.

17 Q. I'm asking, do you agree with that?

18 A. Yes.

19 Q. You do. So the person who owns the

20 mortgage is called the "mortgagee"? That's a

21 question.

22 A. I don't know.

23 Q. So as a County Recorder, you're

24 telling me you don't know --

25 A. Yes.

Page 221

1 Q. -- whether the owner of the

2 mortgage is the mortgagee?

3 A. Is the mortgagee, yes.

4 Q. Yes, you don't know, or yes, it is?

5 A. Yes, it is.

6 Q. So the owner of the mortgage is the

7 mortgagee, right?

8 A. Yeah.

9 Q. And on Exhibit 31 it says MERS is

10 the mortgagee; is that right?

11 A. Yes.

12 Q. So if a mortgage is recorded in

13 your records that clearly states in bold that

14 MERS is the mortgagee, where is it that there

15 is confusion on that chain of title?

16 A. Because it may have been assigned

17 after this document.

18 Q. The mortgage?

19 A. And we wouldn't know, yes.

20 Q. The mortgage. The mortgage may

21 have been assigned, and you didn't know?

22 That's --

23 A. Correct.

24 Q. -- the confusion? But if the

25 mortgage then wasn't assigned, there would be

56 (Pages 218 - 221)

Page 222	Page 224
<p>1 no confusion?</p> <p>2 A. Correct.</p> <p>3 Q. And do you have any information to</p> <p>4 suggest that any of the MERS mortgages were</p> <p>5 assigned and not recorded?</p> <p>6 A. I don't know.</p> <p>7 Q. Pardon me?</p> <p>8 A. I don't know if they were not</p> <p>9 recorded.</p> <p>10 Q. Do you have any reason to believe</p> <p>11 that a MERS mortgage was assigned and not</p> <p>12 recorded?</p> <p>13 A. Yes.</p> <p>14 Q. I'm sorry?</p> <p>15 A. Yes.</p> <p>16 Q. And what basis do you have to</p> <p>17 believe that?</p> <p>18 A. Because people can't trace the</p> <p>19 chain, or find out who owns their mortgage,</p> <p>20 because it's not recorded in my office.</p> <p>21 Q. I think we're speaking about double</p> <p>22 negatives. The question I'm asking is; is</p> <p>23 there any information or facts, do you know,</p> <p>24 that when that mortgage was recorded on your</p> <p>25 county records that somebody assigned that</p>	<p>1 A. Yes.</p> <p>2 Q. Are the elections for your position</p> <p>3 partisan elections?</p> <p>4 A. Yes.</p> <p>5 Q. So what party are you?</p> <p>6 A. Republican.</p> <p>7 Q. Are you already the nominee of the</p> <p>8 Republican party for the election?</p> <p>9 A. Yes.</p> <p>10 Q. Is there a Democratic nominee?</p> <p>11 A. Yes.</p> <p>12 Q. And who is he or her?</p> <p>13 A. Joanne Wertz Reilly.</p> <p>14 Q. And I take it that's an election in</p> <p>15 November?</p> <p>16 A. Yes.</p> <p>17 Q. And is there anyone else that's</p> <p>18 filed and qualified to be on the ballot, other</p> <p>19 than the Democratic nominee and yourself?</p> <p>20 A. No.</p> <p>21 Q. Now, back to the questions I was</p> <p>22 asking you about the category. You said</p> <p>23 there's a category for mortgages for recording.</p> <p>24 Is there a category for mortgage assignments?</p> <p>25 A. There's an assignment category,</p>
Page 223	Page 225
<p>1 mortgage, which would be MERS, right? They're</p> <p>2 the mortgagee, so they would assign the</p> <p>3 mortgage, right?</p> <p>4 A. Right.</p> <p>5 Q. Do you have any information or</p> <p>6 basis to suggest that MERS assigned a mortgage</p> <p>7 that they recorded and didn't record that</p> <p>8 assignment?</p> <p>9 A. No.</p> <p>10 Q. Do you have any instances that you</p> <p>11 can point to where that occurred?</p> <p>12 A. Do I?</p> <p>13 Q. Yes.</p> <p>14 A. No.</p> <p>15 Q. Now, you mentioned you had been the</p> <p>16 County Recorder, an elected position, since</p> <p>17 2009?</p> <p>18 A. Yes.</p> <p>19 Q. Is that a four-year term?</p> <p>20 A. Yes.</p> <p>21 Q. So are you up for reelection?</p> <p>22 A. Yes.</p> <p>23 Q. Are you running for reelection?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have opposition?</p>	<p>1 yes.</p> <p>2 Q. Is that a category generally for</p> <p>3 assignments, and then has various types of</p> <p>4 assignments under them?</p> <p>5 A. I have to look at my documents.</p> <p>6 But I'm pretty sure.</p> <p>7 Q. You're pretty sure it does have</p> <p>8 specific categories?</p> <p>9 A. Yes, it does.</p> <p>10 Q. Are you also pretty sure that one</p> <p>11 of those categories would be "mortgage</p> <p>12 assignments"?</p> <p>13 A. Yes.</p> <p>14 Q. Now, is there a category for notes,</p> <p>15 or promissory notes?</p> <p>16 A. No.</p> <p>17 Q. In your three, four years as the</p> <p>18 County Recorder, has anyone proffered to the</p> <p>19 county a promissory note to be recorded?</p> <p>20 A. I do not know.</p> <p>21 Q. If someone was to proffer to your</p> <p>22 office a note to be recorded, given that it's</p> <p>23 not in a category, what would you or somebody</p> <p>24 at your office do in response to somebody</p> <p>25 proffering a document like a note, which is not</p>

<p style="text-align: right;">Page 226</p> <p>1 part of your -- one of your categories?</p> <p>2 A. If there's no category for it, they</p> <p>3 would tell them it needs to have a category.</p> <p>4 Q. So if someone brings to you -- can</p> <p>5 I take it from that then that if someone</p> <p>6 brought to your office a note to record, and</p> <p>7 you've said there's no category, they would be</p> <p>8 pulled, and they cannot record that document?</p> <p>9 A. As -- as prepared, yes. Yes.</p> <p>10 Q. As a note?</p> <p>11 A. Yes.</p> <p>12 Q. So is it then fair to say that your</p> <p>13 office does not accept for recording promissory</p> <p>14 notes?</p> <p>15 A. I have to look at the list for</p> <p>16 promissory -- I would have to look at our list.</p> <p>17 I don't think so.</p> <p>18 Q. Well, let's assume, as you've</p> <p>19 already testified, that that's not a category.</p> <p>20 A. Okay.</p> <p>21 Q. And if that's true, then it would</p> <p>22 then be true, right, that your office would not</p> <p>23 accept promissory notes for recording?</p> <p>24 A. If there's no category, correct.</p> <p>25 Q. And if there's no category for</p>	<p style="text-align: right;">Page 228</p> <p>1 A. Yes.</p> <p>2 Q. You do understand that?</p> <p>3 A. Yes.</p> <p>4 Q. And do you as the County Recorder</p> <p>5 know of any law in Ohio that would mandate the</p> <p>6 recording of promissory notes?</p> <p>7 A. I do not know.</p> <p>8 Q. And as the County Recorder, do you</p> <p>9 know of any law that would mandate the</p> <p>10 recording of mortgages?</p> <p>11 A. Yes.</p> <p>12 Q. You do?</p> <p>13 A. Yes.</p> <p>14 Q. And what law is that?</p> <p>15 A. It's in the code. I don't know</p> <p>16 exactly. But mortgages must be recorded.</p> <p>17 Q. So as the County Recorder, it's</p> <p>18 your view that every mortgage entered into</p> <p>19 between parties must be recorded?</p> <p>20 A. Yes.</p> <p>21 Q. And you believe the basis for that</p> <p>22 is in Ohio Law somewhere, correct?</p> <p>23 A. Yes.</p> <p>24 Q. In the code itself?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 227</p> <p>1 promissory notes, it would then stand to reason</p> <p>2 that notes are not recorded in Geauga County's</p> <p>3 records?</p> <p>4 A. Right.</p> <p>5 Q. And I think you've said, as you sit</p> <p>6 here today, three-and-a-half years into being</p> <p>7 the County Recorder, you don't know of any</p> <p>8 promissory note that's been ever recorded on</p> <p>9 the Geauga County records?</p> <p>10 A. I do not know of any.</p> <p>11 Q. You don't know of any, not one?</p> <p>12 A. Because I haven't been through all</p> <p>13 the records.</p> <p>14 Q. Now, do you understand that the</p> <p>15 lawsuit you've brought, or the county has</p> <p>16 brought, seeks in some part the requirement to</p> <p>17 record promissory notes?</p> <p>18 A. Okay.</p> <p>19 Q. That's a question; do you</p> <p>20 understand that?</p> <p>21 A. Yes.</p> <p>22 MR. SIEBOTT: Objection.</p> <p>23 Foundation.</p> <p>24 Q. I'm just asking if you understand</p> <p>25 that's what your lawsuit asks for?</p>	<p style="text-align: right;">Page 229</p> <p>1 Q. And do you believe that the code</p> <p>2 requires the recording of mortgage assignments?</p> <p>3 A. Yes.</p> <p>4 Q. And do you believe that the Ohio</p> <p>5 Law mandates that?</p> <p>6 A. Yes.</p> <p>7 Q. And you think that's in the county</p> <p>8 code?</p> <p>9 A. And I think that's where?</p> <p>10 Q. In the code, the Ohio Law?</p> <p>11 A. Yes.</p> <p>12 Q. Now, what is your understanding</p> <p>13 then if Ohio Law requires recording of</p> <p>14 mortgages and requires the recording of</p> <p>15 mortgage assignments? What would be your</p> <p>16 understanding as to the consequence to a party</p> <p>17 who fails to comply with Ohio Law and record a</p> <p>18 mortgage or mortgage assignment?</p> <p>19 A. I don't know.</p> <p>20 Q. So as the County Recorder, you</p> <p>21 believe it's the duty of everyone to record --</p> <p>22 everyone in Ohio to record mortgages and</p> <p>23 mortgage assignments, but yet you don't know</p> <p>24 what the --</p> <p>25 MR. SIEBOTT: Asked and answered.</p>

58 (Pages 226 - 229)

<p style="text-align: right;">Page 230</p> <p>1 Q. You don't know what the consequence 2 is if one fails to do so? 3 MR. SIEBOTT: Objection. Asked and 4 answered. 5 A. It's been asked and answered. 6 Q. Yes. Could you answer it, please? 7 I just want to make sure I'm clear, that you as 8 the County Recorder, believe that it's 9 mandatory in Ohio to record mortgages and 10 assignments, but yet you as the County Recorder 11 don't know the consequence if one fails to 12 record a mortgage or mortgage assignment? 13 A. The consequence is a clouded title. 14 Q. So the consequence of one failing 15 to record a mortgage or mortgage assignment is 16 a cloud on the title to the mortgage? 17 A. Right. 18 Q. Is there any other consequence, 19 that you're aware of, to anybody failing to 20 meet what you believe Ohio Law requires, and 21 that is recording mortgages or mortgage 22 assignments? 23 A. I don't know. 24 Q. You don't know of any? 25 A. Not of any.</p>	<p style="text-align: right;">Page 232</p> <p>1 Q. And just to be clear, I know 2 Mr. Yenouskas asked you a lot of questions 3 about the complaint, and if he asked you this, 4 I apologize. But did you read the complaint 5 before it was filed? 6 A. No. 7 Q. So it was filed and then you read 8 it? 9 A. Yes. 10 Q. I assume you've read the complaint? 11 A. Yes. 12 Q. But they filed it, and before they 13 filed it, you never read a version that was 14 going to be filed? 15 A. That's correct. 16 Q. Now, Mr. Yenouskas also asked you 17 about the County Recorder's authority under 18 Ohio Law to accept documents for recording. Do 19 you remember those questions? 20 A. Yes. 21 Q. And I was not clear; but do you 22 believe, other than for form of the mortgage or 23 mortgage assignment, the County Recorder, you 24 as the County Recorder, has the authority to 25 reject documents for recording, if they're --</p>
<p style="text-align: right;">Page 231</p> <p>1 Q. Now, in the lawsuit, what is it 2 that you believe the Defendants did wrong? 3 A. Didn't properly follow the Ohio 4 Revised Code. 5 Q. And didn't properly follow Ohio 6 Code in doing what? 7 A. Recording assignments. 8 Q. Would that also include mortgages 9 themselves? 10 A. I don't know what you didn't 11 record. 12 Q. I'm not asking that. I'm asking 13 what the lawsuit claims the Defendants did 14 wrong. I believe you said they didn't record 15 mortgage assignments? 16 A. Right. 17 Q. Do you believe what the Defendants 18 did wrong according to the lawsuit is they also 19 didn't record mortgages? 20 A. I don't know. 21 Q. You don't know whether the lawsuit 22 makes that claim against the Defendants or not? 23 A. I would have to look at -- I 24 don't -- I don't remember what's in the lawsuit 25 specifically. Sorry.</p>	<p style="text-align: right;">Page 233</p> <p>1 A. Yes. 2 Q. -- false -- 3 A. Yes. 4 Q. -- materially or fraudulent? 5 And is your staff trained to review 6 documents each and every time to determine if 7 there's something false in the documents? 8 A. They do not. 9 Q. They do not review them for that 10 purpose? 11 A. They do not review them for that 12 purpose. 13 Q. So how would you then, as the 14 County Recorder, go about making a 15 determination as to whether a document 16 proffered for recording was false, such that it 17 shouldn't be recorded? 18 A. It would have to be blatant. It 19 would have to be something we knew, and then we 20 wouldn't -- we wouldn't -- we wouldn't reject 21 it. We would show it to Mr. Joyce and say is 22 this -- do you think this is fraudulent, or 23 should we accept this? 24 Q. I'm just trying to understand what 25 policy you have at your office that gets you to</p>

59 (Pages 230 - 233)

<p style="text-align: right;">Page 234</p> <p>1 a point where you would then take it to</p> <p>2 Mr. Joyce.</p> <p>3 A. There is no policy.</p> <p>4 Q. And I think if I heard it</p> <p>5 correctly, you only know of one incident in the</p> <p>6 four years you've been a County Recorder where</p> <p>7 you've actually taken any document proffered</p> <p>8 for recording to Mr. Joyce because it may have</p> <p>9 been fraud, or fraudulently presented?</p> <p>10 A. Yes.</p> <p>11 Q. And if I thought I understood it</p> <p>12 correctly, that was because there was an</p> <p>13 ongoing investigation?</p> <p>14 MR. SIEBOTT: I think that the line</p> <p>15 of questioning led to a discussion about the</p> <p>16 ongoing investigation, and because of the</p> <p>17 ongoing investigation she can't testify about</p> <p>18 it.</p> <p>19 Q. I'll ask it a different way.</p> <p>20 That's fair enough.</p> <p>21 The reason the document, the one</p> <p>22 document that wasn't recorded wasn't because</p> <p>23 your staff thought it was false or fraudulent</p> <p>24 on its own and presented it to Mr. Joyce?</p> <p>25 A. Yes. That is the reason.</p>	<p style="text-align: right;">Page 236</p> <p>1 have any understanding as to whether Ohio Law</p> <p>2 requires that the owner of the mortgage</p> <p>3 disclose to the public that he or she owns the</p> <p>4 mortgage?</p> <p>5 A. Say that again.</p> <p>6 Q. Sure. Do you, as the County</p> <p>7 Recorder, have an understanding that Ohio Law</p> <p>8 requires the owner of the mortgage to disclose</p> <p>9 to the public who owns the mortgage?</p> <p>10 A. They have -- they have to file --</p> <p>11 they have to file it, yeah. If that's what you</p> <p>12 mean disclose to the public.</p> <p>13 Q. So you, as the County Recorder,</p> <p>14 understand Ohio Law requires that the owner of</p> <p>15 the mortgage has to file it, record it and</p> <p>16 identify who owns the mortgage?</p> <p>17 A. Yes.</p> <p>18 Q. And the basis for your</p> <p>19 understanding is what?</p> <p>20 A. Ohio Revised Code.</p> <p>21 Q. So you're saying that comes right</p> <p>22 out of the statute itself?</p> <p>23 A. Yes.</p> <p>24 Q. Is it your understanding, as the</p> <p>25 County Recorder, that the entity who holds the</p>
<p style="text-align: right;">Page 235</p> <p>1 Q. In other words, the investigation</p> <p>2 came after you presented the document?</p> <p>3 A. Yes.</p> <p>4 Q. Now, do you know who Barbara</p> <p>5 Sessler is?</p> <p>6 A. Yes.</p> <p>7 Q. And who is Barbara Sessler?</p> <p>8 A. She's a Recorder.</p> <p>9 Q. She's a Recorder in Erie County?</p> <p>10 A. I think so.</p> <p>11 Q. Is she currently the recorder for</p> <p>12 Erie County?</p> <p>13 A. She's currently a Recorder. Yeah.</p> <p>14 Q. And was Erie County at some point</p> <p>15 interested in joining the lawsuit that was</p> <p>16 going to be brought by Geauga County?</p> <p>17 A. I don't know.</p> <p>18 Q. Isn't it true that they were</p> <p>19 eventually -- they were initially interested in</p> <p>20 being a part of this lawsuit?</p> <p>21 A. I don't know.</p> <p>22 Q. And isn't it true that they decided</p> <p>23 against it?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you, as the County Recorder,</p>	<p style="text-align: right;">Page 237</p> <p>1 promissory note has to identify themselves in</p> <p>2 the public record?</p> <p>3 A. I need to look at my fee chart</p> <p>4 about the promissory note. You said "note"?</p> <p>5 Q. I did say --</p> <p>6 A. Before --</p> <p>7 Q. I'm sorry, what is it you have to</p> <p>8 look at? A fee chart?</p> <p>9 A. If a promissory note is one of our</p> <p>10 categories.</p> <p>11 Q. Okay. But assume it is or it</p> <p>12 isn't, the question is -- you're the County</p> <p>13 Recorder. Do you have an understanding under</p> <p>14 Ohio Law that a note has to be proffered for</p> <p>15 recording to identify who has that promissory</p> <p>16 note?</p> <p>17 A. I would have to look at the code</p> <p>18 regarding the note.</p> <p>19 Q. So the answer is you don't know?</p> <p>20 A. Correct.</p> <p>21 Q. So as the County Recorder, you</p> <p>22 don't know one way or another whether a note</p> <p>23 has to be recorded in the county records?</p> <p>24 A. I look at the list.</p> <p>25 Q. I'm just asking you; as you sit</p>

60 (Pages 234 - 237)

<p style="text-align: right;">Page 238</p> <p>1 here today, do you know?</p> <p>2 A. No.</p> <p>3 Q. Now, Mr. Yenouskas also asked you</p> <p>4 some questions about MERS and what they do.</p> <p>5 Did I hear you correctly to say the first you</p> <p>6 heard of MERS was in 2009 when you became the</p> <p>7 County Recorder?</p> <p>8 A. Yes.</p> <p>9 Q. So before --</p> <p>10 A. A couple of months before I heard.</p> <p>11 Q. So is it fair to say you learned</p> <p>12 and knew everything about MERS since 2009</p> <p>13 forward?</p> <p>14 A. Right.</p> <p>15 Q. And tell me again what your</p> <p>16 understanding is of what MERS does?</p> <p>17 A. They sell the mortgages from bank A</p> <p>18 to bank B to bank C, or assign them.</p> <p>19 Q. Does MERS lend money?</p> <p>20 A. I don't know.</p> <p>21 Q. Does MERS service loans?</p> <p>22 A. I don't know.</p> <p>23 Q. Does MERS serve as mortgagee?</p> <p>24 A. Well, yeah.</p> <p>25 Q. So MERS not only, in your mind,</p>	<p style="text-align: right;">Page 240</p> <p>1 never tried to access the system that MERS has</p> <p>2 yourself?</p> <p>3 A. Correct.</p> <p>4 Q. To see if, in fact, you could get</p> <p>5 information from the MERS system?</p> <p>6 A. Correct.</p> <p>7 Q. And I take it no one on your staff</p> <p>8 has ever tried to use the MERS system to access</p> <p>9 information?</p> <p>10 A. Correct.</p> <p>11 Q. Have you in the four, three or four</p> <p>12 years you've been the County Recorder had any</p> <p>13 training about who MERS is when documents are</p> <p>14 proffered to your office for recording?</p> <p>15 A. No.</p> <p>16 Q. Have you made any attempts to try</p> <p>17 to understand who MERS is, so when their</p> <p>18 documents are proffered for recording you would</p> <p>19 know what to do with them?</p> <p>20 A. No.</p> <p>21 Q. Do you have any estimate of how</p> <p>22 many mortgages, like Exhibit Number 31, naming</p> <p>23 MERS as the mortgagee have been recorded on</p> <p>24 Geauga County's records since you've been the</p> <p>25 County Recorder?</p>
<p style="text-align: right;">Page 239</p> <p>1 would then assign mortgages, or sell them, as</p> <p>2 you say, they would also be the mortgagee?</p> <p>3 A. Yes.</p> <p>4 Q. Can you be the mortgagee, like MERS</p> <p>5 is, without lending money?</p> <p>6 A. I don't know. I thought it was</p> <p>7 just tracking.</p> <p>8 Q. On the tracking, you also, I think,</p> <p>9 testified something to the effect that MERS</p> <p>10 does it within their own system. And is there</p> <p>11 anything on the MERS system that is available</p> <p>12 to the public?</p> <p>13 A. I don't know.</p> <p>14 Q. Well, I thought you said, and</p> <p>15 correct me if I heard you wrong, that the MERS</p> <p>16 system was not open to the public?</p> <p>17 A. That's what it says in the</p> <p>18 documents that I used, the OAITA documents.</p> <p>19 That's where I got that.</p> <p>20 Q. But what do you believe?</p> <p>21 A. I believe it.</p> <p>22 Q. You believe that the system is not</p> <p>23 open to anyone for any purpose, right?</p> <p>24 A. Right.</p> <p>25 Q. And I think you also said you've</p>	<p style="text-align: right;">Page 241</p> <p>1 A. There is a list -- oh, of how many</p> <p>2 mortgages, or how many by MERS? I don't know.</p> <p>3 Q. Well, let me reask the question so</p> <p>4 it's clearer. Looking at Exhibit Number 31, do</p> <p>5 you know how many mortgages virtually identical</p> <p>6 to Exhibit Number 31 have been recorded in</p> <p>7 Geauga County's records since the time you</p> <p>8 became the County Recorder?</p> <p>9 A. I do not.</p> <p>10 Q. Would you say it's more than 10?</p> <p>11 A. Yes.</p> <p>12 Q. Would you say it's more than 1,000?</p> <p>13 A. I don't know.</p> <p>14 Q. Would you say it's more than 100?</p> <p>15 A. I don't know.</p> <p>16 Q. Really?</p> <p>17 A. I would -- I don't know.</p> <p>18 Q. So as the County Recorder you have</p> <p>19 no sense at all as to how many MERS mortgages</p> <p>20 have been recorded in the last four years on</p> <p>21 your records?</p> <p>22 MR. SIEBOTT: Objection. Asked and</p> <p>23 answered.</p> <p>24 Q. You can answer, please.</p> <p>25 A. No. I don't know. I don't know</p>

Page 242

1 how many.  
 2 MR. BROCHIN: Can we take a  
 3 five-minute break?  
 4 MR. SIEBOTT: Sure.  
 5 (Thereupon, a recess was taken.)  
 6 MR. BROCHIN: Back on the record.  
 7 Q. Ms. Gingerich, Mr. Yenouskas was  
 8 asking you, and we kind of left off talking  
 9 about what MERS does. We also talked a little  
 10 bit about the recording system, and how it  
 11 related to the MERS database. And I think I  
 12 was asking you whether anyone at your office  
 13 has accessed the MERS database or the MERS  
 14 system to obtain any sort of information. Have  
 15 they?  
 16 A. No.  
 17 Q. And is the -- what is the reason  
 18 you haven't had anyone in your office try to  
 19 access the MERS database?  
 20 A. There's no reason to.  
 21 Q. Is it because you were under the  
 22 belief that you wouldn't have access to that  
 23 database?  
 24 A. No.  
 25 Q. Now, I also understand in response

Page 243

1 to a question Mr. Yenouskas asked you who had,  
 2 in the case of an assignment of a mortgage, the  
 3 obligation to record a document. Do you  
 4 remember that question? And you believed, or  
 5 testified, that it was the assignor?  
 6 A. Yes.  
 7 Q. Does that accurately state your  
 8 testimony?  
 9 A. The person who was -- yes.  
 10 Q. So let's just use an example.  
 11 Again, Exhibit Number 31 is a MERS mortgage,  
 12 correct?  
 13 A. Correct.  
 14 Q. And if that mortgage was going to  
 15 be assigned, it would be assigned by who?  
 16 A. MERS.  
 17 Q. And so that means that MERS would  
 18 be the assignor, correct?  
 19 A. You know, I don't do the daily  
 20 input, so -- okay. Whatever word you want to  
 21 use.  
 22 Q. Well, I want to use the word you  
 23 want to use. I'm just asking the questions. I  
 24 just want to understand your understanding of  
 25 who you believe has the obligation to record

Page 244

1 assignments of mortgages. You've already told  
 2 me that it's mandatory in Ohio Law. Now I'm  
 3 asking who has that obligation?  
 4 A. MERS, if they assign it to someone,  
 5 has the obligation to record it.  
 6 Q. And what is the basis for your  
 7 understanding that it would be the assignor, or  
 8 in this example MERS, who has the obligation to  
 9 record?  
 10 A. Because it's their document.  
 11 Q. Is there anything in the Ohio Law  
 12 or Code Sections that suggest that it is the  
 13 assignor's obligation to record the document?  
 14 A. Not that I know of.  
 15 Q. So your basis is because you are  
 16 speculating that since it's their document,  
 17 they would be the one obligated to record it?  
 18 A. Correct.  
 19 Q. And when you were talking about the  
 20 obligation of the assignor, were you limiting  
 21 that obligation to the assignment of mortgages,  
 22 or any assignments?  
 23 A. Any assignments.  
 24 Q. What other assignments do you in  
 25 your office record other than assignments of

Page 245

1 mortgages?  
 2 A. Leases.  
 3 Q. And does Ohio Law mandate, as your  
 4 understanding, that entities or persons record  
 5 assignments of leases?  
 6 A. Yes.  
 7 Q. They're obligated to do so?  
 8 A. Yes.  
 9 Q. Have you had any instances where  
 10 entities have not met that statutory obligation  
 11 and recorded their assignments of leases?  
 12 A. I wouldn't know.  
 13 Q. Well, how is it you know -- strike  
 14 that.  
 15 Do you know that MERS hasn't met  
 16 its obligation in recording assignments of  
 17 mortgages?  
 18 A. Yes.  
 19 Q. And how is it that you know MERS  
 20 hasn't met their obligation to record  
 21 mortgages, but you don't know if certain  
 22 lessors -- lessees haven't recorded the  
 23 assignments of those leases?  
 24 A. It's not been brought to my  
 25 attention.

Page 246

1 Q. So the way you know MERS didn't  
2 meet its obligation is because somebody brought  
3 it to the County Recorder's attention?  
4 A. Correct.  
5 Q. And that somebody is who?  
6 A. It would be different. I mean, it  
7 might be a Title Examiner. It might be whoever  
8 couldn't find something.  
9 Q. Have you had in your office chain  
10 of title issues or clouding for mortgages other  
11 than MERS mortgages?  
12 A. I don't -- I don't know.  
13 Q. I mean, are there mortgages who  
14 list mortgagees other than MERS who are not  
15 assigning those mortgages?  
16 A. I don't know. Not that's been said  
17 to me.  
18 Q. But why is it then you're going  
19 after just MERS for not assigning the  
20 mortgages? Isn't it possible there are other  
21 entities that aren't assigning mortgages?  
22 MR. SIEBOTT: Objection.  
23 Foundation.  
24 A. I don't know.  
25 Q. Do you feel a sense of

Page 247

1 responsibility to determine whether other  
2 entities are not recording documents according  
3 to Ohio Law?  
4 A. No.  
5 Q. Have you conducted any  
6 investigation at all to determine if there's  
7 any entities that aren't recording documents  
8 under Ohio Law?  
9 A. No.  
10 Q. Have you ever done any  
11 investigation as to entities not recording  
12 documents under Ohio Law?  
13 A. No.  
14 Q. Do you know if your predecessors  
15 have ever done any such investigations?  
16 A. I do not know.  
17 Q. Do you know if there's ever been  
18 any claims by anyone, including County  
19 Recorders, whether you or anyone, for any  
20 entity not meeting what you believe to be a  
21 statutory obligation to record documents?  
22 A. I do not know.  
23 Q. Would you believe this to be the  
24 first case of its kind, where one is seeking to  
25 enforce the recording of documents under Ohio

Page 248

1 Law?  
2 A. As far as I know.  
3 Q. Has the law on the recording of  
4 documents changed since you've been a County  
5 Recorder?  
6 A. Yes.  
7 Q. How so?  
8 A. There's been, like, Veterans  
9 documents --  
10 Q. Sorry?  
11 A. Veterans D-214s. They used to be  
12 public records. They are not anymore. That's  
13 one example. I can't think off the top of my  
14 head. But there's been other changes like  
15 that. There was a change in the way the  
16 transfer on death deeds are recorded. Again,  
17 off the top of my head, I really can't  
18 remember.  
19 Q. When you came into office in 2009,  
20 was the law in Ohio then, as you understand it,  
21 that there was a requirement to record  
22 mortgages and mortgage assignments?  
23 A. Yes.  
24 Q. How long was that law in existence?  
25 A. I don't know. I would have to look

Page 249

1 at the code.  
2 Q. But it was -- in your understanding  
3 when you came to office in 2009 there was a  
4 requirement that all mortgages be recorded in  
5 the records, and all mortgage assignments be  
6 recorded?  
7 A. Correct.  
8 Q. And you don't know how long that's  
9 been in place in Ohio?  
10 A. I do not.  
11 Q. That's all I have. Thank you.  
12 Thank you for your time.  
13 MR. BROCHIN: Oh, I'm not asking  
14 any more questions under the specific  
15 understanding that if we wish to depose Ms.  
16 Gingerich again on the merits, we would have  
17 the opportunity to do so.  
18 (Thereupon, a discussion was had  
19 off the record.)  
20 EXAMINATION OF SHARON GINGERICH  
21 BY MS. YAKSIC:  
22 Q. Good afternoon, Ms. Gingerich. I  
23 appreciate your patience. I know it's been a  
24 long day. We met earlier. I'm Barbara Yaksic,  
25 and I represent a couple of Defendants in this



Page 250

1 lawsuit. But I'm here today to ask you  
 2 questions with respect to one of those  
 3 Defendants, CoreLogic.  
 4 What do you know about CoreLogic?  
 5 A. Nothing.  
 6 Q. Is it your understanding that the  
 7 lawsuit that brings us here today is against  
 8 entities that have lent money or securitized  
 9 mortgages?  
 10 A. I don't know why they're partners.  
 11 Q. Do you have any evidence that  
 12 CoreLogic has been involved in the making of  
 13 any loans in the State of Ohio?  
 14 A. I have no knowledge. I don't know.  
 15 Q. Do you have any knowledge or  
 16 information that CoreLogic has been involved in  
 17 the securitization of loans connected to the  
 18 State of Ohio?  
 19 A. I do not know.  
 20 Q. Do you have any reason -- do you  
 21 have any information as to why CoreLogic has  
 22 been named a Defendant in this lawsuit?  
 23 A. I do not know.  
 24 Q. Are you aware of any assignments  
 25 made by or to CoreLogic?

Page 251

1 A. I do not know.  
 2 Q. Then I'm not going to even take 10  
 3 minutes. That's it.  
 4 A. I'm sorry.  
 5 Q. Well, if you don't know, I can't  
 6 ask you. Thank you for your time.  
 7 EXAMINATION OF SHARON GINGERICH  
 8 BY MR. DUHAMEL:  
 9 Q. Ms. Gingerich, I'm Marcel Duhamel.  
 10 I represent Corinthian Mortgage. I'm not sure  
 11 how long my questioning is going to go. I'm  
 12 going to try not to plow over any ground that's  
 13 already been covered.  
 14 Were you ever asked to investigate  
 15 any potential claims against Corinthian?  
 16 A. No.  
 17 Q. Were you ever asked by anyone to  
 18 look for any records that might involve  
 19 Corinthian?  
 20 A. No.  
 21 Q. Are you aware that Corinthian  
 22 served a set of requests for production on  
 23 Geauga County in this case?  
 24 A. No.  
 25 Q. Did anyone -- go ahead.

Page 252

1 A. I don't remember who was on that.  
 2 I don't think it was Corinthian, the one I  
 3 received.  
 4 Q. Did anyone ever ask you to look for  
 5 documents in your office that might relate to  
 6 Corinthian Mortgage in any way?  
 7 A. No.  
 8 Q. Does your office use an e-mail  
 9 system?  
 10 A. Yes.  
 11 Q. Have you ever taken any steps to  
 12 search your e-mail system for any reference to  
 13 Corinthian Mortgage?  
 14 A. No.  
 15 Q. Have you taken any steps to ensure  
 16 that no e-mails that might relate to Corinthian  
 17 Mortgage have been deleted since this lawsuit  
 18 began?  
 19 A. No.  
 20 Q. Has anyone ever asked you to do  
 21 that?  
 22 A. No.  
 23 Q. Has anybody ever asked you to  
 24 ensure that you preserve any records that might  
 25 relate to Corinthian that are in your

Page 253

1 possession?  
 2 A. No.  
 3 Q. Has anyone ever asked you to  
 4 preserve any records that might relate to MERS  
 5 that are in your possession?  
 6 A. To preserve them?  
 7 Q. Right. Keep them, not destroy  
 8 them.  
 9 A. No one has asked me to do anything.  
 10 I just don't.  
 11 Q. Has anybody ever asked you to  
 12 search your e-mail systems for any reference to  
 13 MERS?  
 14 A. Yes.  
 15 Q. And did you find documents  
 16 referring to MERS in your e-mail system?  
 17 A. Yes.  
 18 Q. And have you produced those to your  
 19 attorney?  
 20 A. Yes.  
 21 Q. Were there any other documents that  
 22 you found referring to MERS that you did not  
 23 produce?  
 24 A. No.  
 25 Q. You've testified a little bit about

<p style="text-align: right;">Page 254</p> <p>1 the complaint in this case. Have you ever seen 2 the amended complaint? 3 A. I have not. 4 - - - - - 5 (Thereupon, Deposition Exhibit 56, A 6 Document Entitled "Amended Class 7 Action Complaint", was marked for 8 purposes of identification.) 9 - - - - - 10 Q. Ma'am, I'm handing you Exhibit 56, 11 or rather the court reporter has handed it to 12 you. You've never seen it before today? 13 A. No. 14 Q. I would like you to turn to page 15 45. There's a series of allegations that 16 begins at paragraph 7, and it ends at paragraph 17 59. Do you see them? 18 A. Yes. 19 Q. Do you know if any of those 20 allegations are actually true? 21 A. Yeah. Yes. 22 Q. And are they, in fact, true? 23 A. Yes. 24 Q. How do you know? 25 A. Because they're in our request for</p>	<p style="text-align: right;">Page 256</p> <p>1 Q. Did anyone ever ask you if that was 2 true? 3 A. Other than you, no. 4 Q. Mr. Joyce never asked you if that 5 was true before he prepared the complaint? 6 A. No. 7 Q. Mr. Joyce or anyone on Mr. Joyce's 8 staff has never asked you to confirm whether 9 anyone of the allegation about Corinthian were 10 true; is that right? 11 A. That's correct. 12 - - - - - 13 (Thereupon, Deposition Exhibit 57, A 14 Mortgage, was marked for purposes of 15 identification.) 16 - - - - - 17 Q. Ma'am, I've handed you what is 18 marked as Exhibit 57. Have you ever seen this 19 document before? 20 A. No. 21 Q. Does it appear to be a mortgage 22 that was recorded on April 11, 2003? 23 A. Yes. 24 Q. And it was recorded in the Geauga 25 County office --</p>
<p style="text-align: right;">Page 255</p> <p>1 production. 2 Q. So have you ever actually seen a 3 March 25, 2003 note executed by a Geauga County 4 resident and given to Corinthian Mortgage, 5 d/b/a South Bank? 6 A. I have not personally seen that, 7 no. 8 Q. So how do you know that allegation 9 is true? 10 A. It's an assumption. 11 Q. You're assuming it's true? 12 A. Yes. 13 Q. So when I asked you if you knew it 14 was true, what you meant to say is you assumed 15 it was true? 16 A. Yes. 17 Q. All right. Paragraph 58 says; "On 18 June 26, 2003 the mortgage loan was 19 securitized." Do you see that? 20 A. Yes. 21 Q. How do you know? 22 MR. SIEBOTT: Objection. 23 Foundation. 24 Q. Do you know? 25 A. I don't know.</p>	<p style="text-align: right;">Page 257</p> <p>1 A. Yes. 2 Q. -- the Recorder's Office? Yes? 3 A. Yes. 4 Q. Who recorded it? 5 A. You mean which -- which person at 6 the front desk? 7 Q. Let me rephrase. Who's the 8 mortgagee? 9 A. Corinthian. 10 Q. So certainly you're not of the 11 belief that Corinthian violated any Ohio 12 statute by failing to record this document 13 because, in fact, it recorded it, right? 14 A. Right. 15 - - - - - 16 (Thereupon, Deposition Exhibit 58, A 17 Mortgage, was marked for purposes of 18 identification.) 19 - - - - - 20 Q. This is 58. Have you seen this 21 document before? 22 A. No. 23 Q. Does it appear to be an assignment 24 of mortgage? 25 A. Yes.</p>

65 (Pages 254 - 257)

<p style="text-align: right;">Page 258</p> <p>1 Q. And, in fact, it was recorded in</p> <p>2 the Geauga County Recorder's Office, right?</p> <p>3 A. Yes.</p> <p>4 Q. And the assignee -- I'm sorry. The</p> <p>5 assignor is who? Who's assigning it?</p> <p>6 A. Corinthian.</p> <p>7 Q. Is that an answer or a question?</p> <p>8 A. Corinthian.</p> <p>9 Q. And that, in fact, is exactly what</p> <p>10 you claim Corinthian was obligated to do, if it</p> <p>11 assigned this mortgage, right?</p> <p>12 MR. SIEBOTT: Objection.</p> <p>13 Foundation.</p> <p>14 A. I'm sorry?</p> <p>15 Q. It's your belief that if Corinthian</p> <p>16 assigned this mortgage it was obligated to have</p> <p>17 this document recorded in the Geauga County</p> <p>18 Recorder's Office, right?</p> <p>19 A. Yes.</p> <p>20 Q. And as far as you can tell, that's</p> <p>21 exactly what Corinthian did; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. These two documents, this mortgage</p> <p>24 and this assignment, do they appear to be the</p> <p>25 documents that are referred to in paragraph</p>	<p style="text-align: right;">Page 260</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And I made an assumption.</p> <p>3 Do we know who the assignment is to, looking at</p> <p>4 this document?</p> <p>5 A. Do we know who it's to?</p> <p>6 Q. Right. Corinthian assigns it. Do</p> <p>7 we know to whom they're assigning it?</p> <p>8 A. JP. To JPMorgan Chase.</p> <p>9 Q. Then there's another alleged</p> <p>10 assignment from Residential Funding Corporation</p> <p>11 to Residential Funding Mortgage Securities 2,</p> <p>12 Inc., right?</p> <p>13 A. Yes.</p> <p>14 Q. Does Corinthian have anything to do</p> <p>15 with that transaction, as far as you know?</p> <p>16 A. I don't know.</p> <p>17 Q. Does it have anything to do with</p> <p>18 the first transaction, the loan being sold to a</p> <p>19 sponsor of Residential Funding Corporation?</p> <p>20 A. I don't know.</p> <p>21 Q. Then there's another transaction,</p> <p>22 Residential Funding Mortgage Securities sells</p> <p>23 it to JPMorgan Chase. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know if Corinthian has</p>
<p style="text-align: right;">Page 259</p> <p>1 57 -- let's start with paragraph 57 of the</p> <p>2 amended complaint. Just looking at the</p> <p>3 mortgage.</p> <p>4 A. I'm sorry, what was the question?</p> <p>5 Q. Look at paragraph 57, and tell me</p> <p>6 if the mortgage appears to be the mortgage that</p> <p>7 relates to that paragraph.</p> <p>8 A. Yeah.</p> <p>9 Q. Now, looking at paragraph 58,</p> <p>10 there's a list of assignments that start in</p> <p>11 sub-paragraph A. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. It says in paragraph B; "first the</p> <p>14 mortgage loan was sold to the sponsor,</p> <p>15 Residential Funding Corporation", right?</p> <p>16 A. Yes.</p> <p>17 Q. And all of that happens after June</p> <p>18 26, 2003. At least what's what the first line</p> <p>19 of paragraph 58 says, right?</p> <p>20 A. Yes.</p> <p>21 Q. And when is the assignment from</p> <p>22 Corinthian to JPMorgan, which we just looked</p> <p>23 at, number 58, when is that dated?</p> <p>24 A. It is dated 11-6-2003.</p> <p>25 Q. 11-6?</p>	<p style="text-align: right;">Page 261</p> <p>1 anything to do with that?</p> <p>2 A. I don't know.</p> <p>3 Q. Then paragraph 59 says that on</p> <p>4 March 25th, someone purporting to be an</p> <p>5 assistant secretary of Corinthian certifies or</p> <p>6 executes a corporate assignment of mortgage.</p> <p>7 That's what we've been talking about here,</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And that document is actually</p> <p>11 recorded in the Geauga County Recorder's</p> <p>12 Office; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. So on this chain, assuming that</p> <p>15 every word in these two paragraphs is true,</p> <p>16 what do you believe, if anything, Corinthian</p> <p>17 failed to record that it was obligated to</p> <p>18 record?</p> <p>19 A. I don't know. I don't see</p> <p>20 anything.</p> <p>21 Q. Do you know if anywhere else in the</p> <p>22 amended complaint there's any other reference</p> <p>23 to Corinthian having engaged in any transaction</p> <p>24 where it is alleged to have done anything</p> <p>25 wrong?</p>

66 (Pages 258 - 261)

Page 262

1 A. I do not know.  
 2 Q. You've said before that if -- I  
 3 understand correctly -- if somebody assigned a  
 4 mortgage and didn't record it, you wouldn't be  
 5 in the position to know about that because they  
 6 didn't record it; is that right?  
 7 A. Correct.  
 8 Q. You understand that Geauga County  
 9 anyway has accused my client of having done  
 10 exactly that; that's the whole point of the  
 11 lawsuit against my client, right?  
 12 A. Okay.  
 13 Q. So help me understand. If there's  
 14 no way you could possibly know if we ever did  
 15 that, how can you accuse us of having done it?  
 16 A. I don't know.  
 17 Q. Did you ever ask Mr. Joyce about  
 18 that?  
 19 A. I did not.  
 20 Q. Did you ever ask Mr. Joyce whether  
 21 or not Corinthian was an appropriate Defendant  
 22 in this case?  
 23 A. No.  
 24 Q. Sitting here right now, are you  
 25 aware of any transaction in which you actually

Page 263

1 believe Corinthian had an obligation to record  
 2 something and failed to do it?  
 3 A. I am not.  
 4 Q. Are you aware that Geauga County  
 5 provided a list to me of a number of  
 6 transactions involving Corinthian that were  
 7 recorded in Geauga County?  
 8 A. No.  
 9 Q. So, obviously, you've never seen  
 10 that list?  
 11 A. Correct.  
 12 - - - - -  
 13 (Thereupon, Deposition Exhibit 59, A  
 14 Document Bates Stamped GCR-003192  
 15 Through GCR-003219, was marked for  
 16 purposes of identification.)  
 17 - - - - -  
 18 Q. I'm giving you Exhibit 59, which is  
 19 a group exhibit. For the record, it's Bates  
 20 labeled GCR-3192 through 3219. Have you ever  
 21 seen this document before today?  
 22 A. No.  
 23 Q. I'd like you to just look at the  
 24 first page. In the middle of the page there's  
 25 a list of party names. Do you see that?

Page 264

1 A. Yes.  
 2 Q. And then to the side of that, under  
 3 the column "series", there's some notations.  
 4 One says "direct", and everything else says  
 5 "reverse"; do you see that?  
 6 A. Yes.  
 7 Q. What's the "direct" refer to?  
 8 A. I don't know.  
 9 Q. Do you know what the "reverse"  
 10 refers to?  
 11 A. I don't know. I don't input the  
 12 documents.  
 13 Q. Does this look like it's a  
 14 screenshot of some sort of electronic query off  
 15 of the Geauga County Recorder's system?  
 16 A. Yes.  
 17 Q. Just looking at the first page, is  
 18 there anything on the first page of this  
 19 document that would suggest to you that there's  
 20 any reason to believe that with respect to the  
 21 transaction that's been recorded Corinthian did  
 22 anything wrong?  
 23 A. I don't know.  
 24 Q. So looking at it, you don't know  
 25 how to interpret this document?

Page 265

1 A. As to whether or not you did  
 2 anything wrong, no.  
 3 Q. Would you agree with me that if  
 4 Corinthian was a mortgagee and it recorded the  
 5 mortgage, and then if Corinthian assigned the  
 6 mortgage to somebody else and recorded that  
 7 assignment, it did everything that you believe  
 8 it was required to do under Ohio Law with  
 9 respect to that mortgage and that assignment?  
 10 A. Yes.  
 11 Q. And it is not your intent to sue  
 12 Corinthian for that, correct?  
 13 MR. SIEBOTT: Objection.  
 14 Foundation.  
 15 Q. As far as you know. That's not  
 16 your intent anyway --  
 17 A. I don't know.  
 18 Q. -- as the Geauga County Recorder;  
 19 is that correct?  
 20 A. I don't know.  
 21 Q. It's not my intent to go through  
 22 every one of these, but I'll pull some examples  
 23 out.  
 24 - - - - -  
 25 (Thereupon, Deposition Exhibit 60, A

67 (Pages 262 - 265)

Page 266

1 Mortgage, was marked for purposes of  
2 identification.)  
3 - - - - -  
4 Q. Have you seen this document before  
5 today?  
6 A. No.  
7 Q. It is Exhibit 60. I'll represent  
8 to you that it's a copy of a mortgage that my  
9 office caused to be pulled from the Geauga  
10 County Recorder's Office after receiving a  
11 production of documents from Geauga County.  
12 It appears on the face of this  
13 mortgage that it was, in fact, recorded in the  
14 Geauga County Recorder's Office, right?  
15 A. Yes.  
16 Q. And that the mortgagee is  
17 Corinthian Mortgage Corporation, d/b/a South  
18 Bank Mortgage; is that correct?  
19 A. Yes.  
20 - - - - -  
21 (Thereupon, Deposition Exhibit 61,  
22 An Assignment of Mortgage, was  
23 marked for purposes of  
24 identification.)  
25 - - - - -

Page 267

1 Q. And this is 61. Does this appear  
2 to be an assignment of the mortgage you just  
3 looked at?  
4 A. Yes.  
5 Q. And it's an assignment from  
6 Corinthian Mortgage, correct?  
7 A. Yes.  
8 Q. And it's to Mortgage Electronic  
9 Registration Systems, Inc.; is that correct?  
10 A. Correct.  
11 Q. And at least under your view of the  
12 law, it's your belief that Corinthian was  
13 obligated to record this assignment in the  
14 Geauga County Recorder's Office; is that  
15 correct?  
16 A. Yes.  
17 Q. And that's exactly what happened,  
18 right?  
19 A. Yes.  
20 Q. So at least with respect to this  
21 transaction, in your view Corinthian didn't do  
22 anything wrong?  
23 A. Correct.  
24 Q. And if I showed you a string of 17  
25 or 18 mortgages and assignments that looked

Page 268

1 exactly like this; in other words, it's a  
2 mortgage where Corinthian is the mortgagee, and  
3 then Corinthian assigns it to someone else, you  
4 would tell me that at least with respect to  
5 those transactions, in your view, Corinthian  
6 didn't do anything wrong?  
7 A. Correct.  
8 Q. Now, if Corinthian assigns the  
9 mortgage to somebody else, and then that person  
10 turns around and assigns it to yet another  
11 person, is it your view that Corinthian has any  
12 obligation to make sure that that assignment  
13 gets recorded?  
14 A. No.  
15 Q. And if Corinthian is a mortgagee  
16 and doesn't assign the mortgage, it simply  
17 keeps it, there's obviously no violation there  
18 either, as long as Corinthian recorded the  
19 mortgage; is that correct?  
20 A. Correct.  
21 Q. And sitting here right now, you're  
22 not aware of any circumstance where as far as  
23 you know Corinthian received a mortgage,  
24 assigned it to anyone and failed to record that  
25 assignment?

Page 269

1 A. To my knowledge, no.  
2 Q. And you've never been asked to see  
3 if that's the case?  
4 A. No.  
5 Q. Are you aware of any other county  
6 in which Corinthian has even recorded a  
7 mortgage?  
8 A. I don't know.  
9 Q. Have you ever tried to look?  
10 A. No, I have not.  
11 Q. Do you know if Corinthian has ever  
12 recorded an assignment in any other county?  
13 A. I don't know.  
14 Q. Do you know if Corinthian has ever  
15 had any mortgage or any interest in any  
16 mortgage that was recorded in any county other  
17 than Ohio?  
18 A. I don't know.  
19 Q. Do you know if Corinthian has ever  
20 securitized any mortgage?  
21 A. I do not know.  
22 Q. Do you know if Corinthian has ever  
23 participated in the securitization of any  
24 mortgage in any way?  
25 A. I don't know.

68 (Pages 266 - 269)

<p style="text-align: right;">Page 270</p> <p>1 Q. Do you know what securitization is?</p> <p>2 A. Yes.</p> <p>3 Q. Could you describe that to me?</p> <p>4 A. It's when you put a bunch of</p> <p>5 mortgages together and bundle them.</p> <p>6 Q. Okay. And you're not aware of</p> <p>7 Corinthian doing that with respect to any</p> <p>8 mortgage in Ohio?</p> <p>9 A. I wouldn't know. I don't know.</p> <p>10 Q. Certainly not with respect to</p> <p>11 Geauga County, as far as you know?</p> <p>12 A. I don't know.</p> <p>13 Q. And as a Geauga County Recorder,</p> <p>14 you've never been asked to determine whether or</p> <p>15 not Corinthian participated in even one such</p> <p>16 transaction before this lawsuit was filed?</p> <p>17 A. That is correct.</p> <p>18 Q. Were you asked in any way to</p> <p>19 investigate anything having to do with</p> <p>20 Corinthian before this lawsuit was filed?</p> <p>21 A. No.</p> <p>22 Q. Do you know if Mr. Joyce asked</p> <p>23 anyone in your staff to conduct any</p> <p>24 investigation of Corinthian before filing this</p> <p>25 lawsuit against Corinthian?</p>	<p style="text-align: right;">Page 272</p> <p>1 A. Yes.</p> <p>2 Q. And that it appears to have been</p> <p>3 recorded in the Geauga County, Ohio Recorder's</p> <p>4 Office?</p> <p>5 A. Yes.</p> <p>6 Q. And that it identifies the</p> <p>7 mortgagee as Mortgage Electronic Registration</p> <p>8 Systems, Inc.?</p> <p>9 A. Yes.</p> <p>10 Q. "As nominee for lender, as defined</p> <p>11 herein"; yes?</p> <p>12 A. Yes.</p> <p>13 Q. And then it identifies the lender</p> <p>14 as Corinthian Mortgage Corporation. Do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 - - - - -</p> <p>18 (Thereupon, Deposition Exhibit 63, A</p> <p>19 Certificate of Satisfaction, was</p> <p>20 marked for purposes of</p> <p>21 identification.)</p> <p>22 - - - - -</p> <p>23 Q. Ma'am, this is 63. I assume you</p> <p>24 haven't seen this document before today, right?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 271</p> <p>1 A. I don't know what he asked.</p> <p>2 Q. Has anyone on your staff ever told</p> <p>3 you that Mr. Joyce asked them to investigate</p> <p>4 anything concerning Corinthian?</p> <p>5 A. No.</p> <p>6 Q. Have you ever seen the results of</p> <p>7 any pre-lawsuit investigation involving</p> <p>8 Corinthian?</p> <p>9 A. No.</p> <p>10 - - - - -</p> <p>11 (Thereupon, Deposition Exhibit 62, A</p> <p>12 Mortgage, was marked for purposes of</p> <p>13 identification.)</p> <p>14 - - - - -</p> <p>15 Q. Ma'am, this is Exhibit 62. Have</p> <p>16 you seen this before?</p> <p>17 MR. SIEBOTT: Do you have another</p> <p>18 copy?</p> <p>19 MR. DUHAMEL: I'm sorry. That's</p> <p>20 rude of me. I apologize.</p> <p>21 A. You asked a question? I have not.</p> <p>22 Q. Have you ever seen it before?</p> <p>23 A. No.</p> <p>24 Q. Would you agree with me that it</p> <p>25 appears to be a mortgage?</p>	<p style="text-align: right;">Page 273</p> <p>1 Q. Would you agree that it appears to</p> <p>2 be a Certificate of Satisfaction?</p> <p>3 A. Yes.</p> <p>4 Q. Would you agree that it appears to</p> <p>5 have been filed in the Geauga County Recorder's</p> <p>6 Office?</p> <p>7 A. Yes.</p> <p>8 Q. Would you agree that it is -- that</p> <p>9 it reflects that the holder of the mortgage at</p> <p>10 the time is Mortgage Electronic Registration</p> <p>11 Systems, Inc.?</p> <p>12 A. Yes.</p> <p>13 Q. Would you agree that it identifies</p> <p>14 Corinthian Mortgage Corporation, d/b/a South</p> <p>15 Bank Mortgage, as the original mortgagee?</p> <p>16 A. Yes.</p> <p>17 Q. And, in fact, as you said before,</p> <p>18 this is, in fact, filed in Geauga County, in</p> <p>19 the Geauga County Recorder's Office, yes?</p> <p>20 A. Yes.</p> <p>21 Q. With respect to the transactions</p> <p>22 that are reflected by these two documents, do</p> <p>23 you believe Corinthian did anything wrong?</p> <p>24 A. I don't know.</p> <p>25 Q. Is there anything that you can see</p>

69 (Pages 270 - 273)

Page 274

1 from these two documents that Corinthian failed  
 2 to record but should have?  
 3 A. I don't know.  
 4 Q. Do you know if Corinthian has ever  
 5 entered into any kind of an agreement with  
 6 MERS?  
 7 A. Didn't it just say you did?  
 8 Q. Well, did it? Is that what that  
 9 said? You tell me. I'm asking you the  
 10 questions.  
 11 A. I don't know.  
 12 Q. You don't know?  
 13 A. I don't know.  
 14 Q. Do you know what a conspiracy is?  
 15 A. Yes.  
 16 Q. Do you have any evidence that  
 17 Corinthian has conspired with MERS to do  
 18 anything at all?  
 19 A. No.  
 20 Q. Thank very much. I don't have  
 21 anything else.  
 22 MR. SIEBOTT: Since it's 5:00, do  
 23 we want to continue? How long are -- I guess  
 24 we'll take a break and pick up tomorrow.  
 25 MS. YAKSIC: Before you leave --

Page 275

1 before you leave I would ask if you waive  
 2 signature? Would you explain that to the  
 3 witness.  
 4 MR. SIEBOTT: We want to reserve  
 5 our right to review and correct. We will  
 6 review and correct.  
 7 MS. YAKSIC: The witness is not  
 8 waiving signature?  
 9 MR. SIEBOTT: Right.  
 10 (The deposition was concluded at  
 11 4:58 p.m.)  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25


Page 276

1 Whereupon, counsel was requested to give  
 2 instruction regarding the witness's review of  
 3 the transcript pursuant to the Civil Rules.  
 4  
 5 SIGNATURE:  
 6 It was agreed by and between counsel and the  
 7 parties that the Deponent will read and sign  
 8 the transcript of said deposition.  
 9  
 10 TRANSCRIPT DELIVERY:  
 11 Counsel was requested to give instruction  
 12 regarding delivery date of transcript.  
 13 ORIGINAL: Mr. Yenouskas  
 14 COPY: Mr. Brochin  
 15 COPY: Mr. Duhamel  
 16 COPY: Ms. Ghannoum  
 17 COPY: Mr. Cunningham  
 18 COPY: Mr. Carpenter  
 19 COPY: Mr. Allensworth  
 20 COPY: Mr. Pope  
 21 COPY: Ms. Koesel  
 22  
 23  
 24  
 25

Page 277

1 REPORTER'S CERTIFICATE  
 2 The State of Ohio, )  
 3 SS:  
 4 County of Cuyahoga. )  
 5  
 6 I, Todd L. Persson, a Notary Public  
 7 within and for the State of Ohio, duly  
 8 commissioned and qualified, do hereby certify  
 9 that the within named witness, SHARON  
 10 GINGERICH, was by me first duly sworn to  
 11 testify the truth, the whole truth and nothing  
 12 but the truth in the cause aforesaid; that the  
 13 testimony then given by the above-referenced  
 14 witness was by me reduced to stenotypy in the  
 15 presence of said witness; afterwards  
 16 transcribed, and that the foregoing is a true  
 17 and correct transcription of the testimony so  
 18 given by the above-referenced witness.  
 19 I do further certify that this  
 20 deposition was taken at the time and place in  
 21 the foregoing caption specified.  
 22  
 23  
 24  
 25

70 (Pages 274 - 277)

<p style="text-align: right;">Page 278</p> <p>1 I do further certify that I am not</p> <p>2 a relative, counsel or attorney for either</p> <p>3 party, or otherwise interested in the event of</p> <p>4 this action.</p> <p>5 IN WITNESS WHEREOF, I have hereunto</p> <p>6 set my hand and affixed my seal of office at</p> <p>7 Cleveland, Ohio, on this <u>25</u> day of</p> <p>8 <u>April</u>, 2012.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 <u>Todd L. Persson</u></p> <p>14 Todd L. Persson, Notary Public</p> <p>15 within and for the State of Ohio</p> <p>16</p> <p>17 My commission expires July 28, 2012.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> 	<p style="text-align: right;">Page 280</p> <p>1 DEPOSITION REVIEW</p> <p>2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT NO. 48824</p> <p>4 CASE NAME: State of Ohio v. MERS CORP., Inc.</p> <p>5 DATE OF DEPOSITION: April 24, 2012</p> <p>6 WITNESS' NAME: Sharon Gingerich</p> <p>7 In accordance with the Rules of Civil Procedure,</p> <p>8 I have read the entire transcript of my testimony or it</p> <p>9 has been read to me.</p> <p>10 I have listed my changes on the attached Errata</p> <p>11 Sheet, listing page and line numbers as well as the reason(s)</p> <p>12 for the change(s).</p> <p>13 I request that these changes be entered as part of the</p> <p>14 record of my testimony.</p> <p>15 I have executed the Errata Sheet, as well as this</p> <p>16 Certificate, and request and authorize that both be appended</p> <p>17 to the transcript of my testimony and be incorporated therein.</p> <p>18</p> <p>19</p> <p>20 Date <u>Sharon Gingerich</u></p> <p>21</p> <p>22 Sworn to and subscribed before me, a Notary Public in</p> <p>23 and for the State and County, the referenced witness did</p> <p>24 personally appear and acknowledge that:</p> <p>25</p> <p>They have read the transcript;</p> <p>They have listed all of their corrections in the</p> <p>appended Errata Sheet</p> <p>They signed the foregoing sworn Statement; and</p> <p>Their execution of this Statement is of their free</p> <p>act and deed.</p> <p>I have affixed my name and official seal this</p> <p>day of _____, 20____.</p> <p>Notary Public</p> <p>Commission Expiration Date</p>
<p style="text-align: right;">Page 279</p> <p>1 DEPOSITION REVIEW</p> <p>2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT NO. 48824</p> <p>4 CASE NAME: State of Ohio v. MERS CORP., Inc.</p> <p>5 DATE OF DEPOSITION: April 24, 2012</p> <p>6 WITNESS' NAME: Sharon Gingerich</p> <p>7 In accordance with the Rules of Civil Procedure,</p> <p>8 I have read the entire transcript of my testimony or it</p> <p>9 has been read to me.</p> <p>10 I have made no changes to the testimony as</p> <p>11 transcribed by the court reporter.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 281</p> <p>1 ERRATA SHEET</p> <p>2 RENNILLO DEPOSITION &amp; DISCOVERY - A VERITEXT COMPANY</p> <p>3 ASSIGNMENT NO. 48824</p> <p>4 PAGE/LINE(S) / CHANGE / REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19</p> <p>20 Date <u>Sharon Gingerich</u></p> <p>21</p> <p>22 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF</p> <p>23 _____, 20____.</p> <p>24</p> <p>25 NOTARY PUBLIC</p> <p>Commission Expiration Date</p>



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

STATE OF OHIO,  
ex rel. DAVID P. JOYCE,

Plaintiff,

vs. Civil Action No. 1:11-cv-02474

MERSCORP, INC., et al.,

Defendants.

Deposition of  
SHARON GINGERICH  
VOLUME II

APRIL 25, 2012  
9:00 a.m.

Taken at:  
Baker & Hostetler, LLP  
1900 East Ninth Street, Suite 3200  
Cleveland, Ohio

Todd L. Persson, Notary Public

Page 283

1 APPEARANCES:

2

3 On behalf of the Plaintiff:

4 Bernstein Liebhard, LLP, by

5 CHRISTIAN SIEBOTT, ESQ.

6 SARA GOODMAN, ESQ.

7 10 East 40th Street

8 New York, NY 10016

9 (212) 779-1414

10 siebott@bernlieb.com

11

12 On Behalf of the Defendants, Huntington

13 Bank, Fifth Third Bank and Key Bank

14 National Association:

15 Baker & Hostetler, LLP, by

16 BRETT A. WALL, ESQ.

17 LISA M. GHANNOUM, ESQ.

18 1900 East 9th Street

19 Suite 3200

20 Cleveland, OH 44114

21 (216) 861-7597

22 bwall@bakerlaw.com

23 lghanoum@bakerlaw.com

24

25

Page 284

1 APPEARANCES, Continued:

2

3 On Behalf of the Defendants, CoreLogic,

4 SunTrust:

5 McGlinchey Stafford, PLLC, by

6 CANDICE L. MUSIEK, ESQ.

7 25550 Chagrin Boulevard, Suite 406

8 Cleveland, OH 44122

9 (216) 378-9905

10

11 On Behalf of the Defendants, Nationwide

12 Advantage Mortgage Company:

13 Carpenter, Lipps & Leland, LLP, by

14 MICHAEL H. CARPENTER, ESQ.

15 280 Plaza, Suite 1300

16 280 North High Street

17 Columbus, OH 43215

18 (614) 365-4100

19 carpenter@carpenterlipps.com

20

21

22

23

24

25

Page 285

1 APPEARANCES, Continued:

2

3 On Behalf of the Defendants, MERSCORP,

4 MERS:

5 Morgan, Lewis & Bockius, LLP, by

6 ROBERT M. BROCHIN, ESQ.

7 200 South Biscayne Boulevard

8 Suite 5300

9 Miami, FL 33131

10 (305) 415-3546

11 rbrochin@morganlewis.com

12

13 On Behalf of the Defendant, Corinthian

14 Mortgage Corporation, by

15 Vorys, Sater, Seymour and Pease,

16 LLP, by

17 MARCEL C. DUHAMEL, ESQ.

18 2100 One Cleveland Center

19 1375 East Ninth Street

20 Cleveland, OH 44114

21 (216) 479-6112

22 mcduhamel@vorys.com

23

24

25

Page 286

1 APPEARANCES, Continued:

2

3 On Behalf of the Defendant, MGIC Investor

4 Services Corp.:

5 Mansour, Gavin, Gerlack & Manos Co.,

6 LPA, by

7 MICHAEL P. QUINLAN, ESQ.

8 55 Public Square

9 Suite 2150

10 Cleveland, OH 44113

11 (216) 523-1500

12 mquinlan@mggmlpa.com

13

14 On Behalf of the Defendant, Wells Fargo

15 Bank, N.A.:

16 Thompson Hine, LLP, by

17 TERRY W. POSEY, ESQ.

18 Austin Landing I

19 10050 Innovation Drive

20 Suite 400

21 Dayton, OH 45342

22 (937) 443-6857

23 terry.posey@thompsonhine.com

24

25

2 (Pages 283 - 286)

Page 287	Page 289
<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, Deutsch Bank</p> <p>4 National Trust Company:</p> <p>5 Porter, Wright, Morris &amp; Arthur,</p> <p>6 LLP, by</p> <p>7 MARGARET M. KOESEL, ESQ.</p> <p>8 925 Euclid Avenue</p> <p>9 Suite 1700</p> <p>10 Cleveland, OH 44115</p> <p>11 (216) 443-2530</p> <p>12 mkoesel@porterwright.com</p> <p>13</p> <p>14 On Behalf of the Defendants, GMAC</p> <p>15 Mortgage, LLC and US Bank, N.A.:</p> <p>16 Locke Lord, LLP, by</p> <p>17 THOMAS J. CUNNINGHAM, ESQ.</p> <p>18 111 South Wacker Drive</p> <p>19 Chicago, IL 60606</p> <p>20 (312) 443-1731</p> <p>21 tcunningham@lockelord.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, Goldman Sachs</p> <p>4 Mortgage Company, 65 Mortgage Securities</p> <p>5 Corporation:</p> <p>6 K&amp;L Gates, LLP, by</p> <p>7 R. BRUCE ALLENSWORTH, ESQ.</p> <p>8 State Street Financial Center</p> <p>9 One Lincoln Street</p> <p>10 Boston, MA 02111</p> <p>11 (617) 261-3119</p> <p>12 bruce.allensworth@klgates.com</p> <p>13</p> <p>14 On Behalf of the Defendant, HSB Bank USA,</p> <p>15 N.A.:</p> <p>16 Ulmer Berne, LLP, by</p> <p>17 MATTHEW T. WHOLEY, ESQ.</p> <p>18 RICHIK SARKAR, ESQ.</p> <p>19 1660 West 2nd Street</p> <p>20 Suite 1100</p> <p>21 Cleveland, OH 44113</p> <p>22 (216) 583-7000</p> <p>23 mwholey@ulmer.com</p> <p>24</p> <p>25</p>
Page 288	Page 290
<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, Chase:</p> <p>4 Bricker &amp; Eckler, LLP, by</p> <p>5 CHRISTOPHER M. ERNST, ESQ.</p> <p>6 1001 Lakeside Avenue East</p> <p>7 Suite 1350</p> <p>8 Cleveland, OH 44114</p> <p>9 (216) 523-5405</p> <p>10 cernst@bricker.com</p> <p>11</p> <p>12 On Behalf of the Defendant, Home Savings:</p> <p>13 Thrasher, Dinsmore &amp; Dolan, by</p> <p>14 TODD C. HICKS, ESQ.</p> <p>15 100 7th Avenue, Suite 150</p> <p>16 Chardon, OH 44024</p> <p>17 (440) 285-2242</p> <p>18 thicks@tddlalaw.com</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On Behalf of the Defendant, CitiMortgage,</p> <p>4 Inc., Citigroup, Inc., and Citibank,</p> <p>5 N.A.:</p> <p>6 Mayer Brown, LLP, by</p> <p>7 DAVID D. POPE, ESQ.</p> <p>8 71 South Wacker Drive</p> <p>9 Chicago, IL 60606</p> <p>10 (312) 701-8733</p> <p>11 dpope@mayerbrown.com</p> <p>12</p> <p>13 On Behalf of the Defendant, United</p> <p>14 Guaranty Corporation, via teleconference:</p> <p>15 Fennemore Craig, P.C., by</p> <p>16 TODD S. KARTCHNER, ESQ.</p> <p>17 3003 North Central Avenue</p> <p>18 Suite 2600</p> <p>19 Phoenix, AZ 85012</p> <p>20 (602) 916-5461</p> <p>21 tkartchn@fclaw.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

3 (Pages 287 - 290)

Page 291

1 APPEARANCES, Continued:  
2  
3 On Behalf of the Defendant, Deutsche Bank  
4 National Trust Company, via  
5 teleconference:  
6 Morgan, Lewis & Bockius, LLP, by  
7 BRENDAN E. RADKE, ESQ.  
8 One Market  
9 Spear Street Tower  
10 San Francisco, CA 94105  
11 (415) 442-1213  
12 bradke@morganlewis.com  
13  
14 ~ ~ ~ ~ ~  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page 292

1	TRANSCRIPT INDEX	
2		
3	APPEARANCES.....	283
4		
5	INDEX OF EXHIBITS .....	12
6		
7	EXAMINATION OF SHARON GINGERICH:	
8	By Mr. Cunningham.....	295
9	By Mr. Carpenter.....	309
10	By Mr. Wholey.....	426
11	By Mr. Ernst.....	432
12	By Mr. Siebott.....	434
13	By Mr. Duhamel.....	436
14	By Mr. Brochin.....	436
15		
16	REPORTER'S CERTIFICATE.....	439
17		
18	EXHIBIT CUSTODY	
19	EXHIBITS RETAINED BY COURT REPORTER	
20		
21		
22		
23		
24		
25		

Page 293

1	INDEX OF EXHIBITS	
2	NUMBER DESCRIPTION MARKED	
3	Exhibit 64 A Document Bates Stamped .....	332
4	GCR-001718 Through	
5	GCR-001719	
6	Exhibit 65 A Document Bates Stamped .....	335
7	GCO-000001 Through	
8	GCO-000002	
9	Exhibit 66 A Document Bates Stamped .....	346
10	GCR-001467	
11		
12	Exhibit 67 A Document Bates Stamped .....	349
13	GCR-001505	
14	Exhibit 68 A Document Bates Stamped .....	351
15	GCR-001508 Through	
16	GCR-001509	
17	Exhibit 69 A Document Bates Stamped .....	353
18	GCR-001512 Through	
19	GCR-001513	
20	Exhibit 70 A Document Bates Stamped .....	356
21	GCR-001524 Through	
22	GCR-001525	
23	Exhibit 71 A Document Bates Stamped .....	361
24	GCR-001528 Through	
25	GCR-001530	
26	Exhibit 72 A Document Bates Stamped .....	363
27	GCR-001574 Through	
28	GCR-001580	
29	Exhibit 73 A Document Bates Stamped .....	367
30	GCR-001593 Through	
31	GCR-001602	
32	Exhibit 74 A Document Bates Stamped .....	370
33	GCR-001603 Through	
34	GCR-001604	
35	Exhibit 75 A Document Bates Stamped .....	371
36	GCR-001635 Through	
37	GCR-001637	

Page 294

1	Exhibit 76 A Document Bates Stamped .....	374
2	GCR-001695 Through	
3	GCR-001698	
4	Exhibit 77 A Document Bates Stamped .....	379
5	GCR-001713 Through	
6	GCR-001717	
7	Exhibit 78 A Document Bates Stamped .....	387
8	GCR-001800	
9		
10	Exhibit 79 A Document Bates Stamped .....	390
11	GCR-002644 Through	
12	GCR-002645	
13		
14	Exhibit 80 A Document Bates Stamped .....	393
15	GCR-001979 Through	
16	GCR-001981	
17		
18	Exhibit 81 A Document Bates Stamped .....	396
19	GCR-001917	
20	Exhibit 82 A Document Bates Stamped .....	398
21	GCR-001963 Through	
22	GCR-001964	
23	Exhibit 83 A Document Bates Stamped .....	401
24	GCR-002146 Through	
25	GCR-002148	
26	Exhibit 84 A Document Bates Stamped .....	404
27	GCR-002180 Through	
28	GCR-002181	
29	Exhibit 85 A Document Bates Stamped .....	419
30	GCR-002921 Through	
31	GCR-002937	
32	Exhibit 86 A Document Bates Stamped .....	420
33	GCR-002961 Through	
34	GCR-002963	
35	Exhibit 87 A Document Bates Stamped .....	422
36	GCR-002966 Through	
37	GCR-002968	

Page 295

1 SHARON GINGERICH, of lawful age, called  
 2 for examination, as provided by the Federal  
 3 Rules of Civil Procedure, being by me first  
 4 duly sworn, as hereinafter certified, deposed  
 5 and said as follows:  
 6 EXAMINATION OF SHARON GINGERICH  
 7 BY MR. CUNNINGHAM:  
 8 Q. Good morning, Ms. Gingerich. My  
 9 name is Tom Cunningham. I represent GMAC  
 10 Mortgage and US Bank in this case. I'd like to  
 11 start out this morning by asking what you did  
 12 to prepare for this deposition?  
 13 A. I met with my attorney and talked.  
 14 Q. How many times did you meet with  
 15 your attorney?  
 16 A. Once.  
 17 Q. And when was that?  
 18 A. Monday night.  
 19 Q. So Monday night was the first time  
 20 that you met with your attorney to talk about  
 21 this deposition?  
 22 A. About the deposition, yes.  
 23 Q. Did you look at any documents?  
 24 A. Yes.  
 25 Q. What documents did you look at?

Page 296

1 MR. SIEBOTT: Objection.  
 2 Privileged.  
 3 Q. Can you tell me which documents you  
 4 looked at?  
 5 MR. SIEBOTT: I'm instructing you  
 6 not to answer that question.  
 7 A. I may not answer that question.  
 8 Q. Did you look at any of the  
 9 documents before this deposition that you were  
 10 shown yesterday that were marked as exhibits?  
 11 A. That were marked as exhibits? I  
 12 may have seen some.  
 13 Q. Whose idea was it to file this  
 14 lawsuit? Was this lawsuit your idea?  
 15 A. No, sir.  
 16 Q. Whose idea was it?  
 17 A. David Joyce.  
 18 Q. Have you ever testified at a  
 19 deposition before?  
 20 A. No.  
 21 Q. Have you ever testified at a trial  
 22 before?  
 23 A. No.  
 24 Q. Have you ever testified before any  
 25 legislative body?

Page 297

1 A. No.  
 2 Q. Have you ever offered nay testimony  
 3 under oath under any circumstances before  
 4 yesterday?  
 5 A. You mean -- well, I'm divorced, if  
 6 that's what you mean.  
 7 Q. Did you give testimony in your  
 8 divorce under oath?  
 9 A. Probably. You know what, that was  
 10 a long time ago. I don't remember if they  
 11 swore us in. I don't remember. It wasn't a  
 12 trial situation.  
 13 Q. Fair enough. Other than your  
 14 divorce, you haven't given testimony anywhere  
 15 else; is that right?  
 16 A. No. Correct.  
 17 Q. Now, yesterday morning  
 18 Mr. Yenouskas asked you some questions about  
 19 the processes in your office that you go  
 20 through to record documents. I would like to  
 21 ask you a few follow-up questions about that.  
 22 Would you agree that those  
 23 processes differ from county to county across  
 24 the State of Ohio?  
 25 A. Some of them, yes.

Page 298

1 Q. And would you agree that the  
 2 policies and practices differ from county to  
 3 county across the State of Ohio?  
 4 A. Yes.  
 5 Q. Would you agree that the number of  
 6 employees differs from county to county?  
 7 A. Yes.  
 8 Q. And would you agree that the volume  
 9 of documents recorded also varies from county  
 10 to county?  
 11 A. Yes.  
 12 Q. So some counties see a far larger  
 13 number of documents than others, correct?  
 14 A. Correct.  
 15 Q. Have you made any effort to  
 16 forecast the amount of additional work your  
 17 office would need to complete if you were  
 18 successful in obtaining the injunction you seek  
 19 in this lawsuit?  
 20 MR. SIEBOTT: Objection.  
 21 Foundation.  
 22 Q. You can answer, if you can.  
 23 A. No.  
 24 Q. And you've made no effort to  
 25 forecast the additional work that would be

Page 299

1 imposed on other Ohio counties if the  
 2 injunction were entered, correct?  
 3 A. Correct.  
 4 Q. Mr. Yenouskas also asked you some  
 5 questions about the fees that you charge and  
 6 how they're set. Can you tell us, do this  
 7 recorders in Ohio have any flexibility in  
 8 setting fees?  
 9 A. No.  
 10 Q. So they're set by the State  
 11 legislature?  
 12 A. Yes.  
 13 Q. And you can't add additional  
 14 amounts on top of whatever the legislature  
 15 sets?  
 16 A. Correct.  
 17 Q. And that's the same for all Ohio  
 18 counties?  
 19 A. Correct.  
 20 Q. Would you agree with me that the  
 21 burden of recording assignments of mortgages  
 22 might fall disproportionately on some counties?  
 23 A. I have no way of knowing that.  
 24 Q. Would you agree that if that were  
 25 true, those counties should have the right to

Page 300

1 decide whether the benefits that you perceive  
 2 form requiring the assignments to be recorded  
 3 are worth costs of recording those assignments?  
 4 A. Can you clarify that?  
 5 Q. Sure. You believe that it would be  
 6 beneficial to the public, specifically the  
 7 citizens of Geauga County, to have assignments  
 8 of mortgages recorded?  
 9 A. Yes.  
 10 Q. Correct?  
 11 A. Yes.  
 12 Q. There's a cost that goes along with  
 13 that, right? You have to pay employees to  
 14 process the paperwork, take it in?  
 15 A. Yes.  
 16 Q. So there's an issue of whether the  
 17 cost to provide that service exceeds the value  
 18 of the service. You've determined that it's  
 19 worth it to try to force companies to record  
 20 assignments of mortgages. Would you agree that  
 21 other counties should have the right to make  
 22 that decision for themselves?  
 23 A. Counties should make decisions, but  
 24 I'm not forcing.  
 25 Q. Your intention here isn't to force

Page 301

1 other counties to record assignments?  
 2 A. Just to follow the law.  
 3 Q. Do you know whether the fees you  
 4 charge cover the entire cost to record  
 5 documents in Geauga County?  
 6 A. Yes.  
 7 Q. Do you know whether that's true in  
 8 other counties in the State of Ohio?  
 9 A. I can't speak for other counties.  
 10 I don't know.  
 11 Q. Mr. Yenouskas also asked you some  
 12 questions yesterday about the Ohio Attorney  
 13 General opinion that indicates multiple  
 14 assignments can be recorded on a single  
 15 instrument. Do you remember those questions?  
 16 A. Yes.  
 17 Q. Would you agree that if a lender  
 18 recorded a single instrument that listed  
 19 thousands of assignments, and paid only one fee  
 20 to record that single document, the county  
 21 would incur far greater expense to index all  
 22 those assignments listed on that instrument  
 23 than it would collect in fees?  
 24 A. No.  
 25 Q. Why not?

Page 302

1 A. Well, because you're just indexing.  
 2 I don't understand your reasoning why you think  
 3 it would cost more. I mean, we do documents  
 4 every day, all day, every day.  
 5 Q. And every day when you receive a  
 6 document you testified yesterday that somebody  
 7 takes the information from that document and  
 8 inputs it into the computer, right?  
 9 A. Yes.  
 10 Q. So if you had a single document  
 11 that you charged \$28 to record, and that  
 12 document contained information about thousands  
 13 of transactions, and an employee had to sit at  
 14 an computer terminal and enter the information  
 15 for those thousands of transactions, do you  
 16 think you would pay that employee more than \$28  
 17 to do that work?  
 18 A. No. It's set by code. They're  
 19 doing their work, whatever it is, all day. I  
 20 don't understand how you --  
 21 Q. Can you estimate how long it would  
 22 take an employee to enter the information  
 23 relating to, say, 1,000 transactions in the  
 24 computer system?  
 25 A. No.

6 (Pages 299 - 302)

<p style="text-align: right;">Page 303</p> <p>1 Q. Safe to say it would take more than 2 a day? 3 A. I do not know. 4 Q. Do you believe the MERS system 5 fails to serve the public interest? 6 A. Yes. 7 Q. Why? 8 A. Because they fail to record 9 assignments. 10 Q. Are you aware of any information in 11 the MERS system that is erroneous? 12 A. No. 13 Q. Are you aware of any examples where 14 there's missing information in the MERS system? 15 A. I don't know personally. 16 Q. Are you aware of any mortgages that 17 could not be foreclosed because of errors or 18 omissions in the MERS system? 19 A. I have heard people talking about 20 failure to find out who owns the mortgage, yes. 21 Q. Are you aware of any specific cases 22 that you can tell me about, a specific borrower 23 or property, in which a foreclosure could not 24 be completed because of an error or omission in 25 the MERS system?</p>	<p style="text-align: right;">Page 305</p> <p>1 number relating to the mortgage being assigned? 2 A. I cannot speak for other counties. 3 Q. Now, assignments of mortgages are 4 ordinarily recorded prior to the release of the 5 same mortgage, correct? 6 A. Correct. 7 Q. Normally you would want to record 8 documents in chronological order; is that 9 correct? 10 A. Correct. 11 Q. Do you take steps in your office to 12 try to record documents in chronological order 13 when you can? 14 A. Yes. 15 Q. Why do you do that? 16 A. Because that's when they're handed 17 to us. 18 Q. But if you were handed two 19 documents at the same time, and one was dated 20 yesterday and one was dated today, would your 21 staff try to record the one dated yesterday 22 first? 23 A. Probably. 24 Q. And why would they do that? 25 A. To record them in chronological</p>
<p style="text-align: right;">Page 304</p> <p>1 A. A specific case to name, no. 2 Q. Yesterday afternoon Mr. Brochin 3 asked you some questions about recording 4 assignments today that relate to mortgages that 5 have already been released, and I wanted to ask 6 you some follow-up questions about that. 7 Does a party recording an 8 assignment of mortgage in Geauga County need to 9 include some reference to the prior mortgage 10 that is now being assigned, a book and page 11 number -- 12 A. Yes. 13 Q. -- a recordation number? Is that a 14 required piece of information on the 15 assignment? 16 A. Yes. 17 Q. And is that a requirement of Ohio 18 Law, or is that just a practice that you follow 19 in your office? 20 A. You know, I would have to look at 21 the code on that. It is a practice we follow, 22 so we can follow the chain of title. 23 Q. Do you know whether all Ohio 24 counties require assignments of mortgage to 25 specifically identify a number, or a book page</p>	<p style="text-align: right;">Page 306</p> <p>1 order, so it made sense. 2 Q. Would you agree that it would be 3 unusual to record an assignment of a mortgage 4 after a mortgage has been released? 5 A. I don't know. I don't work the 6 front desk, so I don't know. 7 Q. You're not aware of that ever 8 happening? 9 A. I don't know. I don't work the 10 front desk. 11 Q. Do you believe that recordation of 12 an assignment of a mortgage today when the 13 mortgage was actually released years ago might 14 result in confusion among members of the 15 public? 16 A. No. 17 Q. Why not? 18 A. Well, because then they could trace 19 what happened. 20 Q. I wanted to ask some follow-up 21 questions about the testimony yesterday about 22 land trusts as well. Occasionally land in the 23 State of Ohio is owned by a trust; is that 24 correct? 25 A. Correct.</p>

7 (Pages 303 - 306)

<p style="text-align: right;">Page 307</p> <p>1 Q. Do you know why people establish</p> <p>2 trusts to hold title to land?</p> <p>3 A. No. I don't really know.</p> <p>4 Inheritance reasons.</p> <p>5 Q. Isn't it true that one of the</p> <p>6 reasons people create trusts to hold title to</p> <p>7 real estate is to conceal who owns the</p> <p>8 beneficial interest of that trust?</p> <p>9 MR. SIEBOTT: Objection. She just</p> <p>10 said she doesn't know.</p> <p>11 A. I don't know.</p> <p>12 Q. Isn't it true that the</p> <p>13 beneficiaries of a trust are not always shown</p> <p>14 on a trust agreement?</p> <p>15 A. I don't know.</p> <p>16 Q. Would you agree that if the</p> <p>17 beneficiaries of a trust are not shown on the</p> <p>18 trust agreement, and then the beneficial</p> <p>19 interest of a trust changes hands, that</p> <p>20 transaction does not need to be disclosed or</p> <p>21 recorded in any way to your office?</p> <p>22 A. I don't know.</p> <p>23 MR. BROCHIN: I'm sorry, what was</p> <p>24 the answer?</p> <p>25 MR. CUNNINGHAM: She doesn't know.</p>	<p style="text-align: right;">Page 309</p> <p>1 class-related.</p> <p>2 EXAMINATION OF SHARON GINGERICH</p> <p>3 BY MR. CARPENTER:</p> <p>4 Q. Ms. Gingerich, my name is Mike</p> <p>5 Carpenter, and I represent Nationwide Advantage</p> <p>6 Mortgage Company. One of the advantages of</p> <p>7 going last is many of my questions have already</p> <p>8 been asked, so I'll try to make it as brief as</p> <p>9 I can today.</p> <p>10 First of all, I wanted to know, do</p> <p>11 you have any personal knowledge of my client,</p> <p>12 Nationwide Advantage Mortgage Company?</p> <p>13 A. I do not.</p> <p>14 Q. Do you know of anything, to your</p> <p>15 personal knowledge, that Nationwide Advantage</p> <p>16 Mortgage Company did wrong in Geauga County?</p> <p>17 A. I do not.</p> <p>18 Q. Do you know of anything that</p> <p>19 Nationwide Advantage Mortgage Company did wrong</p> <p>20 in the State of Ohio?</p> <p>21 A. I do not know.</p> <p>22 Q. Do you have any personal criticism</p> <p>23 of Nationwide Advantage Mortgage Company?</p> <p>24 A. No.</p> <p>25 Q. We've asked you a little bit about</p>
<p style="text-align: right;">Page 308</p> <p>1 A. I don't know.</p> <p>2 Q. Does US Bank owe your office any</p> <p>3 fees today?</p> <p>4 A. I don't know.</p> <p>5 Q. Does GMAC Mortgage owe your office</p> <p>6 any fees today?</p> <p>7 A. I don't know.</p> <p>8 Q. Are you aware of anything that GMAC</p> <p>9 Mortgage was obligated to record with your</p> <p>10 office but failed to record?</p> <p>11 A. I do not know.</p> <p>12 Q. Are you aware of anything that US</p> <p>13 Bank was obligated to record but failed to</p> <p>14 record with your office?</p> <p>15 A. I do not know.</p> <p>16 Q. Thank you, Ms. Gingerich. Those</p> <p>17 are all the questions I have for you.</p> <p>18 MR. SIEBOTT: Just before the next</p> <p>19 line of questioning, is that the last -- how</p> <p>20 many more? Just one? And how long do you</p> <p>21 think you'll go.</p> <p>22 MR. WHOLEY: Maybe 20 minutes.</p> <p>23 MR. SIEBOTT: And these are for</p> <p>24 class certification?</p> <p>25 MR. WHOLEY: It will be</p>	<p style="text-align: right;">Page 310</p> <p>1 your background. Have you ever been an</p> <p>2 employee of a Recorder's Office prior to</p> <p>3 becoming the Recorder of Geauga County?</p> <p>4 A. No.</p> <p>5 Q. Had you had any prior experience</p> <p>6 with MERS prior to becoming the Recorder of</p> <p>7 Geauga County?</p> <p>8 A. No.</p> <p>9 Q. Had you ever worked with respect to</p> <p>10 the real estate industry in any capacity prior</p> <p>11 to becoming the Recorder of Geauga County?</p> <p>12 A. Well, I worked for an attorney, and</p> <p>13 we recorded deeds.</p> <p>14 Q. Which attorney was that?</p> <p>15 A. Mary Bender.</p> <p>16 Q. And where is she located?</p> <p>17 A. In Chardon.</p> <p>18 Q. And did you personally get involved</p> <p>19 in the recording of the deeds?</p> <p>20 A. I took the deeds to the Recorder's</p> <p>21 Office, yes.</p> <p>22 Q. Okay. And --</p> <p>23 A. In Geauga.</p> <p>24 Q. In Geauga County?</p> <p>25 A. Other ones were mailed.</p>

8 (Pages 307 - 310)



Page 311

1 Q. Okay. And how long did you work  
2 for Mary Bender?  
3 A. Seven years.  
4 Q. And when was that?  
5 A. Seven years prior to 2009.  
6 Q. Okay. So 2002 to 2009; is that  
7 right? What was your title in Mary Bender's  
8 office?  
9 A. Secretary, assistant.  
10 Q. Did you ever have any document you  
11 submitted to the Recorder's Office rejected for  
12 recording?  
13 A. Yes.  
14 Q. Did Mary Bender ever represent any  
15 clients that used the MERS system?  
16 A. Not to my knowledge.  
17 Q. Did she ever discuss the MERS  
18 system with you?  
19 A. No.  
20 Q. So how would you know if she did or  
21 did not?  
22 A. I said "not to my knowledge". I  
23 don't know.  
24 Q. So she may have?  
25 A. She may have.

Page 312

1 Q. Does she have a list of clients  
2 that she was representing at that time?  
3 A. I don't know if she has a list.  
4 Q. Did she represent mostly  
5 individuals, or did she represent banks and  
6 lending institutions?  
7 A. She was a domestic relations  
8 attorney.  
9 Q. Domestic relations attorney. So in  
10 the seven years you worked for Mary Bender,  
11 about how many deeds would you have recorded?  
12 A. I don't know.  
13 Q. Would it have been thousands, less  
14 than thousands?  
15 A. Probably -- I don't -- probably  
16 less than thousands.  
17 Q. Other than working for Mary Bender  
18 in her domestic relations practice as a  
19 secretary, did you work for anyone else with  
20 respect to the real estate industry?  
21 A. You mean, like, a title company, or  
22 anything like that?  
23 Q. Anything related to the real estate  
24 industry.  
25 A. Oil and gas? Would you consider

Page 313

1 that?  
2 Q. What did you do for the oil and gas  
3 company?  
4 A. I was a secretary.  
5 Q. What company was that?  
6 A. Northeast Operating.  
7 Q. And did you do anything with  
8 respect to the real estate operations of  
9 Northeast Operating?  
10 A. I did everything a secretary does.  
11 I mean, type things, and --  
12 Q. Did Northeast Operating file any  
13 leases with Recorder's offices?  
14 A. Yes.  
15 Q. And did you play any role in the  
16 filing of those leases?  
17 A. Yeah. I probably stuck them in the  
18 mail, yeah.  
19 Q. Did you ever go to a Recorder's  
20 Office on behalf of Northeast Operating?  
21 A. Yes.  
22 Q. And what Recorder's Office?  
23 A. Pennsylvania. It was in  
24 Pennsylvania. And I do not remember the  
25 county. That was in the '70s.

Page 314

1 Q. Your work employment at Northeast  
2 Operating was in the 1970s?  
3 A. Yes.  
4 Q. Anything else, other than what  
5 we've covered now with Mary Bender and the  
6 Northeast Operating?  
7 A. No.  
8 Q. Have you ever been elected a public  
9 official for any county prior to being elected  
10 the County Recorder of Geauga County?  
11 A. For any county, no.  
12 Q. Were you elected as a public  
13 official in some other capacity?  
14 A. Yes.  
15 Q. Tell me about that.  
16 A. Burton Village Councilwoman.  
17 Q. Burton Village Council?  
18 A. Yes.  
19 Q. When was that?  
20 A. Three years prior to 2009 I was  
21 elected.  
22 Q. So while you were working at Mary  
23 Bender's office?  
24 A. Yes.  
25 Q. Anything else that you've been

Page 315

1 elected as a public official?

2 A. Yes. Precinct Committee person.

3 Q. And when was that?

4 A. Eight years -- I was for eight

5 years. It's a two-year term, so it was about

6 eight years prior to this past election.

7 Q. Was that in Burton also?

8 A. Yes.

9 Q. When you were on the village

10 council for Burton, did you attempt to exercise

11 any authority over other villages, or did you

12 focus on what was going on in Burton?

13 A. Just Burton.

14 Q. Did you bring any lawsuits in your

15 capacity --

16 A. No.

17 Q. -- on the Burton Village Council?

18 A. No.

19 Q. How about when you were the

20 precinct committee person for eight years in

21 Burton; did you attempt to exercise any

22 authority over any other precincts other than

23 yours?

24 A. No.

25 Q. Did you bring any lawsuits on

Page 316

1 behalf of your precinct?

2 A. No.

3 Q. The fees that you collect for

4 recording documents at the Geauga County

5 Recorder's Office, how are those fees

6 allocated? And I don't mean in what amounts;

7 but in what manner are you told how they are to

8 be allocated?

9 A. In what manner am I told?

10 Q. Yes. I heard testimony about the

11 Housing Trust, and you said that \$14 of every

12 \$28 must go to the Housing Trust?

13 A. Correct.

14 Q. How do you know that?

15 A. It's in the code.

16 Q. It's in the Ohio Revised Code?

17 A. Yes.

18 Q. And what about the other amounts

19 that you spoke of, the amounts for ACS and the

20 amounts that go to your office; how are those

21 determined?

22 A. We have a \$4 fee that goes into the

23 CRM fund, and -- how did that start?

24 Q. Yes.

25 A. I wasn't -- I wasn't Recorder then.

Page 317

1 Q. Is that in the Ohio Revised Code?

2 A. I believe it is.

3 Q. And the remaining moneys that are

4 saved and are turned over to the general fund

5 of Geauga County, how is that determined?

6 A. How is it determined?

7 Q. Yes. Who tells you to pay that to

8 the general fund of Geauga County?

9 A. The process is we turn in the

10 receipts every day, they go to the Auditor, and

11 they take the money. I mean, we don't divide

12 up our money.

13 Q. And my question is; how do you know

14 that you're supposed to turn it over? Who

15 tells you to turn it over?

16 A. The county.

17 Q. Is there anything that you are

18 aware of as the County Recorder of Geauga

19 County that says that you can allocate a

20 portion of the fees you collect for recording

21 documents in Geauga County, and give them to a

22 law firm?

23 A. No.

24 Q. Are you aware that one of the

25 retention items in this case includes the

Page 318

1 possibility that the fees paid to the law firm

2 from New York City representing you would be an

3 agreement to pay future filing fees to

4 Mr. Siebott's law firm?

5 A. I'm not aware of that.

6 Q. Would that be something that you're

7 authorized and ethically obligated to do?

8 A. I don't know anything about that.

9 Q. Have you investigated with respect

10 to future filing fees the authority or ethical

11 obligation you may have to pay them to a law

12 firm from New York City?

13 A. I don't know anything about that.

14 Q. Do you intend to do that after this

15 deposition?

16 A. No. I'm not paying anybody.

17 Q. In the Amended Complaint there is

18 an allegation with respect to Nationwide

19 Advantage Mortgage Company, and a property on

20 328 Bonniewood Drive in Cleveland, Ohio. Are

21 you familiar with that allegation?

22 A. I am not.

23 Q. Is Cleveland, Ohio in Geauga

24 County?

25 A. It is not.

10 (Pages 315 - 318)

Page 319

1 Q. Do you have any jurisdiction over  
2 Cuyahoga County?  
3 A. I do not.  
4 Q. Have you ever been the Recorder of  
5 Cuyahoga County, and specifically as of  
6 February 18, 2003?  
7 A. I have not.  
8 Q. Who does have jurisdiction over the  
9 recording of mortgages and mortgage assignments  
10 in Cuyahoga County currently?  
11 A. I don't know.  
12 Q. Who had them in 2003?  
13 A. The Recorder.  
14 Q. And do you know what the Recorder  
15 of Cuyahoga County in 2003's position is with  
16 respect to this lawsuit?  
17 A. I do not know about that.  
18 Q. Do you know what the current person  
19 responsible for the recording of mortgages and  
20 mortgage assignments in Cuyahoga County's  
21 position is with respect to this lawsuit?  
22 A. I do not know.  
23 Q. Have you spoken to that person  
24 about this lawsuit?  
25 A. No.

Page 320

1 Q. Do you know anything about how the  
2 mortgage loan on 328 Bonniewood in Cuyahoga  
3 County and in Cleveland came to be?  
4 A. I do not.  
5 Q. Do you know whether it was  
6 securitized or not?  
7 A. I do not.  
8 Q. The allegation says it was. Do you  
9 know that to be true?  
10 A. I do not know.  
11 Q. Do you know how securitization of  
12 the property at 328 Bonniewood in Cleveland,  
13 Ohio would have occurred?  
14 A. I do not.  
15 Q. You were not involved in that  
16 securitization process, were you?  
17 A. No.  
18 Q. Do you know who was?  
19 A. No.  
20 Q. And I take it you have no personal  
21 knowledge of Nationwide Advantage Mortgage  
22 Company being involved in securitizing the 328  
23 Bonniewood mortgage loan; is that fair?  
24 A. What's the beginning of that? I  
25 have no knowledge --

Page 321

1 Q. Yes. You have no knowledge --  
2 A. I have no knowledge.  
3 Q. Would you have played any role in  
4 the Bonniewood property recording in Cuyahoga  
5 County from your position in Geauga County?  
6 A. No.  
7 Q. Do you have any power as the County  
8 Recorder of Geauga County to require the  
9 recording of the Bonniewood property be done  
10 differently in Cuyahoga County?  
11 A. No.  
12 Q. Would the same hold true with any  
13 other county in the State of Ohio; do you have  
14 any power to direct how the County Recorders of  
15 any of the other 87 counties in Ohio should be  
16 handling the recording of the documents  
17 presented to them?  
18 A. No.  
19 Q. Would your office in Geauga County  
20 accept a mortgage on a property in another  
21 county?  
22 A. No.  
23 Q. Why not?  
24 A. Because we only accept Geauga  
25 County properties.

Page 322

1 Q. And that's based on the Ohio  
2 Revised Code, correct?  
3 A. Correct.  
4 Q. And the mortgage is to be recorded  
5 in the county in which the property is located,  
6 correct?  
7 A. Correct.  
8 Q. Would your office charge a fee for  
9 a mortgage or a mortgage assignment recorded in  
10 another county in Ohio?  
11 A. No.  
12 Q. What other County Recorders have  
13 contacted you about joining in this lawsuit as  
14 parties?  
15 A. None.  
16 Q. Do you represent the citizens of  
17 Cuyahoga County in any way?  
18 A. No.  
19 Q. Do you represent the citizens of  
20 any other county in Ohio, other than Geauga  
21 County, in any way?  
22 A. No.  
23 Q. Were you elected by the citizens of  
24 any other county in Ohio, other than Geauga  
25 County?

<p style="text-align: right;">Page 323</p> <p>1 A. No.</p> <p>2 Q. Do the citizens of Cuyahoga County</p> <p>3 or any other county in Ohio have the right to</p> <p>4 vote you out if they do not like the manner in</p> <p>5 which you're conducting your office?</p> <p>6 A. No.</p> <p>7 Q. Only the citizens of Geauga County;</p> <p>8 is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you think the citizens of the</p> <p>11 other counties should have that right to vote</p> <p>12 you out depending on how you handle this</p> <p>13 lawsuit?</p> <p>14 A. No.</p> <p>15 Q. Do you believe that the Ohio</p> <p>16 Revised Code gives you the power to order a</p> <p>17 private citizen to record a mortgage or a</p> <p>18 mortgage assignment in the State of Ohio?</p> <p>19 A. No.</p> <p>20 Q. There's no individual mandate from</p> <p>21 you that can require that citizen to so file,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. And only if a citizen decides to</p> <p>25 record must they comply with certain</p>	<p style="text-align: right;">Page 325</p> <p>1 Q. Do you have the power as a Recorder</p> <p>2 in Geauga County to order a private citizen to</p> <p>3 record a mortgage or a mortgage assignment?</p> <p>4 A. No. The code does.</p> <p>5 Q. Is that the question you had a</p> <p>6 concern about?</p> <p>7 A. Yes.</p> <p>8 Q. We've now clarified it, right?</p> <p>9 A. Yes.</p> <p>10 Q. So Mr. Siebott's objection has been</p> <p>11 addressed, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you agree that the recording</p> <p>14 system in Ohio was enacted to benefit and</p> <p>15 protect mortgagees?</p> <p>16 A. Yes.</p> <p>17 Q. Do you agree that the recording</p> <p>18 system in Ohio was enacted to benefit and</p> <p>19 protect bonafide purchases?</p> <p>20 A. Yes.</p> <p>21 Q. Do you agree that the recording</p> <p>22 system in Ohio was enacted to benefit and</p> <p>23 protect creditors?</p> <p>24 A. To protect everybody, yes.</p> <p>25 Q. Do you agree the recording system</p>
<p style="text-align: right;">Page 324</p> <p>1 requirements of the Recorder's Office, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And only if they decide to record</p> <p>4 must they pay you a fee; is that fair?</p> <p>5 A. Correct. Can you back up to that</p> <p>6 question about the Ohio Revised Code?</p> <p>7 Q. Why don't I keep going.</p> <p>8 MR. SIEBOTT: If she wants to</p> <p>9 clarify an answer, I think she should be</p> <p>10 permitted to do so. You can hear the question</p> <p>11 back.</p> <p>12 THE WITNESS: The one about -- did</p> <p>13 the code -- does the code require me to order a</p> <p>14 citizen, is that what you said, to pay?</p> <p>15 MR. SIEBOTT: Could you read the</p> <p>16 question back?</p> <p>17 THE WITNESS: About ordering a</p> <p>18 citizen to record a mortgage?</p> <p>19 Q. Let me ask it again for you, and</p> <p>20 see if this clarifies it for you. Do you have</p> <p>21 a power to order a private citizen in the State</p> <p>22 of Ohio to record a mortgage or a mortgage</p> <p>23 assignment? Is that the question?</p> <p>24 A. Do I have -- yeah. Do I have the</p> <p>25 power? The code has -- the code mandates.</p>	<p style="text-align: right;">Page 326</p> <p>1 in Ohio was enacted to benefit and protect the</p> <p>2 public's right to notice of prior liens?</p> <p>3 A. To know their prior what?</p> <p>4 Q. Do you believe and agree that the</p> <p>5 recording system in Ohio was enacted to benefit</p> <p>6 and protect the public's right of notice of</p> <p>7 prior liens?</p> <p>8 A. Yes.</p> <p>9 Q. Were there any recordings that your</p> <p>10 office actually did for which you were not</p> <p>11 paid?</p> <p>12 A. Well, the county -- the county does</p> <p>13 some of the county that we don't charge for.</p> <p>14 Q. So you have some situations --</p> <p>15 A. If the county -- if the county</p> <p>16 records a deed the county owns.</p> <p>17 Q. Are you claiming a right of</p> <p>18 recovery for those amounts that the county</p> <p>19 records and does not pay you for?</p> <p>20 A. No.</p> <p>21 Q. Are you making any claims in this</p> <p>22 case for any fees that you believe that you</p> <p>23 were owed for recording items that you actually</p> <p>24 recorded?</p> <p>25 MR. SIEBOTT: Objection.</p>

12 (Pages 323 - 326)

Page 327

1 Foundation.  
 2 A. No. I'm not claiming.  
 3 Q. It's only if you record something  
 4 that you're entitled to a fee, correct?  
 5 A. Correct.  
 6 Q. Let's say that I have some property  
 7 in Geauga County and I want to sell it, and  
 8 I'll just pick some round numbers. I want to  
 9 sell it for \$100,000, and I'm going to sell it  
 10 to a private individual, okay?  
 11 A. Okay.  
 12 Q. And I'm going to carry a note for  
 13 \$90,000 on that property, and the person buying  
 14 it from me is going to pay me \$10,000. Are you  
 15 with me so far?  
 16 A. Okay.  
 17 Q. And I take a mortgage on that  
 18 property to secure my interest for the \$90,000.  
 19 Are you with me so far?  
 20 A. Yes.  
 21 Q. And I decide I don't want to record  
 22 the mortgage for whatever reason. Let's say  
 23 it's for one of my children, and we want to  
 24 keep it private. Okay?  
 25 A. Okay.

Page 328

1 Q. Do you have the power to order me  
 2 to record that mortgage?  
 3 A. The code says all mortgages are to  
 4 be recorded.  
 5 Q. Have you ever sued anyone under the  
 6 circumstances I just gave you for refusing to  
 7 record the mortgage between them and their  
 8 child?  
 9 A. No.  
 10 Q. Would you do that?  
 11 A. How would I know?  
 12 Q. If it were brought to your  
 13 attention, and I've just told you here today in  
 14 this deposition about it, would you go tomorrow  
 15 and go to Mr. Joyce and sue me?  
 16 A. No.  
 17 Q. Why not?  
 18 A. I don't know. I just -- I'd  
 19 probably -- maybe I would ask him. I would  
 20 probably ask him if I should. That's what I  
 21 would do. If brought to my attention, I would  
 22 consult with my prosecutor and ask him.  
 23 Q. And if he told you that he thought  
 24 you should sue me under those circumstances,  
 25 would you authorize him to sue me?

Page 329

1 A. If he told me that that's what I  
 2 had to do, I would follow his advice.  
 3 Q. And the same would be true if you  
 4 learned of any other private citizen, or any  
 5 other private transaction that was occurring,  
 6 and they chose for whatever reason, privacy or  
 7 family, not to place that of record in the  
 8 public documents of Geauga County, you would go  
 9 to the prosecutor; and if he said you should  
 10 sue them, you would sue all of them; is that  
 11 correct?  
 12 A. I would follow his advice.  
 13 Q. What if he told you not to sue  
 14 them?  
 15 A. I would follow his advice.  
 16 Q. You would not sue them; is that  
 17 correct?  
 18 A. I would do what he said.  
 19 Q. So it would be Mr. Joyce's  
 20 decision?  
 21 A. Correct.  
 22 Q. Have you ever sued any private  
 23 citizen of Ohio or anywhere else for any reason  
 24 to compel them to record anything?  
 25 A. No.

Page 330

1 Q. Have you ever gone to Mr. Joyce for  
 2 any reason to compel any private citizen to  
 3 record anything?  
 4 A. No.  
 5 Q. Do you favor more efficient  
 6 recording systems?  
 7 A. Sure.  
 8 Q. Do you favor systems that reduce  
 9 errors associated with paper processes?  
 10 A. Sure, yes.  
 11 Q. Do you favor electronic recording?  
 12 A. Yes.  
 13 Q. And you put some software in place  
 14 to assist in Geauga County with electronic  
 15 recording; have you not?  
 16 A. I wanted to.  
 17 Q. You wanted to. And the reason it  
 18 wasn't was because of lack of funding, correct?  
 19 A. No. That is not correct.  
 20 Q. What's the reason it was not done?  
 21 A. IT could not do it. The IT  
 22 department could not accomplish it.  
 23 Q. If they could have accomplished it,  
 24 you would have had it done?  
 25 A. Correct.

Page 331

1 Q. Were you involved in the decision  
2 to file this lawsuit?  
3 A. Dave asked me, yes.  
4 Q. He came to you, or did you go to  
5 him?  
6 A. He came to me.  
7 Q. And when you say "Dave", you mean  
8 David Joyce?  
9 A. Yes.  
10 Q. And I understand there was some  
11 processes that went after that meeting, and  
12 after the decision to proceed, to protect the  
13 citizens of Geauga County; is that correct?  
14 MR. SIEBOTT: Objection. Vague.  
15 A. I don't know what you're talking --  
16 Q. Did you and Mr. Joyce just go file  
17 this suit, or did you go to the County  
18 Commissioners of Geauga County?  
19 A. We went to the Commissioners.  
20 Q. Did you go to anyone else?  
21 A. No.  
22 Q. And do you believe that that same  
23 opportunity to discuss and be heard should be  
24 afforded all the other counties of Ohio before  
25 they are forced into this lawsuit?

Page 332

1 A. Sure.  
2 Q. They should have the same rights  
3 and opportunities, since they represent the  
4 citizens of their respective county, to meet  
5 with their prosecutors and to meet with their  
6 Boards of County Commissioners, correct?  
7 A. Yes.  
8 Q. Is it fair to say, Ms. Gingerich,  
9 that each county acts independently the others  
10 in terms of the operations of their county?  
11 A. Yes.  
12 MR. CARPENTER: And, Christian, I  
13 tried to follow as closely as I can with some  
14 of these exhibits in the back, but if any of  
15 these are duplicates, let me know. I don't  
16 think this one is, but let me know.  
17 - - - - -  
18 (Thereupon, Deposition Exhibit 64, A  
19 Document Bates Stamped GCR-001718  
20 Through GCR-001719, was marked for  
21 purposes of identification.)  
22 - - - - -  
23 Q. Do you recognize, Ms. Gingerich,  
24 this e-mail that we've marked as Exhibit 64?  
25 And let's start with the first e-mail on the

Page 333

1 chain, which is an e-mail from you to a Robert  
2 Holman?  
3 A. Yes.  
4 Q. And it's dated October 20, 2011.  
5 Do you see that?  
6 A. Yes.  
7 Q. Do you recall sending Mr. Holman  
8 this e-mail?  
9 A. Yes.  
10 Q. And in your e-mail to Mr. Holman  
11 you're saying "Mr. Joyce filed this lawsuit  
12 with my office's research assistance and on my  
13 behalf." Is that a true statement when you  
14 wrote it to Mr. Holman?  
15 A. I thought it was, but I was wrong.  
16 Q. So it was not a true statement?  
17 A. It was not a true statement.  
18 Q. And how was it false?  
19 A. It's on the county's behalf. Not  
20 mine.  
21 Q. But you thought at the time it was  
22 being brought on your behalf, correct?  
23 A. I did.  
24 Q. And on your behalf as the County  
25 Recorder of Geauga County; is that correct?

Page 334

1 A. That is correct.  
2 Q. Mr. Holman writes back to you, and  
3 he says "Sharon", colon. Are the two of you on  
4 a first name basis?  
5 A. No. We are now.  
6 Q. He called you "Sharon" there. Was  
7 that false for him to do that?  
8 A. It didn't matter. I signed it  
9 "Sharon", so --  
10 Q. Are you on a first name basis  
11 today?  
12 A. Yes.  
13 Q. And we heard a lot about Cleveland,  
14 Ohio yesterday in terms of discussions about  
15 the city and the community and what's happened  
16 here with respect to some public corruption.  
17 Do you recall that testimony?  
18 A. Yes.  
19 Q. And he tells you in his first  
20 sentence in the first paragraph, "I am actually  
21 in Cleveland, Ohio." Do you see that?  
22 A. Yes.  
23 Q. Did that set any bells off for you?  
24 A. No. Why? No.  
25 MR. ERNST: Excuse me, Mike, what

<p style="text-align: right;">Page 335</p> <p>1 were there Bates numbers on that?</p> <p>2 MR. CARPENTER: I apologize. Yes.</p> <p>3 GCR-001718 and 001719.</p> <p>4 MR. ERNST: Thank you.</p> <p>5 -----</p> <p>6 (Thereupon, Deposition Exhibit 65, A</p> <p>7 Document Bates Stamped GCO-000001</p> <p>8 Through GCO-000002, was marked for</p> <p>9 purposes of identification.)</p> <p>10 -----</p> <p>11 Q. Ms. Gingerich, I've marked as</p> <p>12 Exhibit 65 a document Bates numbered GCO-000001</p> <p>13 and 000002. Do you have that in front of you,</p> <p>14 ma'am?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And you recognize it a letter dated</p> <p>17 October 6, 2011 from the Bernstein Liebhard law</p> <p>18 firm in New York City to David Joyce?</p> <p>19 A. Yes.</p> <p>20 Q. When did you first see this</p> <p>21 document?</p> <p>22 A. A couple of days ago.</p> <p>23 Q. And do you take any disagreement</p> <p>24 with the fee arrangements that have been made</p> <p>25 with the Geauga County prosecutor in this</p>	<p style="text-align: right;">Page 337</p> <p>1 the State of Ohio?</p> <p>2 A. I do not know.</p> <p>3 Q. Are you going to report it to</p> <p>4 anyone?</p> <p>5 A. I don't know. I don't know.</p> <p>6 Q. Can you do that ethically under the</p> <p>7 State of Ohio's rules for you?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you intend to bring that to the</p> <p>10 Ohio Recorders Association's attention?</p> <p>11 A. No. I'll ask Dave what to do.</p> <p>12 Q. Do you intend to post it on your</p> <p>13 website?</p> <p>14 A. No. Again, I will ask Dave what to</p> <p>15 do.</p> <p>16 Q. And will you follow whatever Dave</p> <p>17 tells you to do?</p> <p>18 A. I will.</p> <p>19 Q. Will you seek any independent</p> <p>20 counsel?</p> <p>21 A. No, I will not.</p> <p>22 Q. And Mr. Joyce, just so the record</p> <p>23 is clear, is the named Plaintiff in this</p> <p>24 lawsuit?</p> <p>25 A. The county.</p>
<p style="text-align: right;">Page 336</p> <p>1 lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Directing your attention to the</p> <p>4 third paragraph then, I take it you are in</p> <p>5 agreement when it says; "At the conclusion of</p> <p>6 the litigation, or any part thereof, the firm</p> <p>7 shall apply to the Court for approval of an</p> <p>8 award of attorneys fees and expenses with fees</p> <p>9 amounting to up to 25 percent of the recovery,</p> <p>10 whether comprised of a cash fund, the payment</p> <p>11 of past filing fees and/or an agreement to pay</p> <p>12 future filing fees." Do you see that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. And is it is your position that you</p> <p>15 have the authority and power under the Ohio</p> <p>16 Revised Code as the Recorder of Geauga County</p> <p>17 to allocate the payment of either past filing</p> <p>18 fees or future filing fees; is that your</p> <p>19 testimony?</p> <p>20 A. I do not know how that will work.</p> <p>21 I do not know how that will physically work.</p> <p>22 Q. Do you intend to report this fee</p> <p>23 agreement, and this fee arrangement to allocate</p> <p>24 a portion of your filing fees to the Bernstein</p> <p>25 Liebhard law firm to any ethical authorities in</p>	<p style="text-align: right;">Page 338</p> <p>1 Q. "State of Ohio, ex rel. David</p> <p>2 Joyce." Are you aware that's the name of the</p> <p>3 lawsuit?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. And so you will let a party to this</p> <p>6 lawsuit determine your ethical obligations</p> <p>7 under the Ohio Revised Code; is that correct?</p> <p>8 MR. SIEBOTT: Objection.</p> <p>9 Foundation.</p> <p>10 Q. Is that correct?</p> <p>11 A. I will defer to my prosecutor.</p> <p>12 Q. Even though he is also the named</p> <p>13 Plaintiff in the lawsuit?</p> <p>14 MR. SIEBOTT: Objection. Asked and</p> <p>15 answered.</p> <p>16 Q. Is that correct?</p> <p>17 A. I will defer to my prosecutor.</p> <p>18 MR. CARPENTER: I believe this one</p> <p>19 was marked as Exhibit 48 previously. It's</p> <p>20 GCR-001306. Just to make it more efficient,</p> <p>21 unless you've got them in order, Christian, if</p> <p>22 you can confirm that it's Exhibit 48. Is that</p> <p>23 correct?</p> <p>24 MR. SIEBOTT: Uh-huh.</p> <p>25 MR. CARPENTER: Thank you. So for</p>

15 (Pages 335 - 338)

Page 339

1 everyone in the audience, it's GCR-001307 to  
 2 001306. I apologize. 001306 is the first  
 3 page. I'm on the second page. It's GCR-001306  
 4 and 1307. And I'm on page 2, 1307.  
 5 Q. Paragraph 5 says that "Robert  
 6 Holman, President of OAITA, said their local  
 7 and national organization is 100 percent in  
 8 support of our suit." Do you see that?  
 9 A. Yes.  
 10 Q. Is Mr. Holman a lawyer?  
 11 A. I don't know.  
 12 Q. Well, we'll get to that in a moment  
 13 then. Assume he is. Have you ever received  
 14 legal advice from Mr. Holman on this lawsuit?  
 15 A. No.  
 16 Q. Number 6 says, "My prosecutor."  
 17 Would that be David Joyce?  
 18 A. Yes.  
 19 Q. "Will be speaking about MERS to all  
 20 of your prosecutors at their annual meeting on  
 21 November 30th. He has copied your PAs." Did  
 22 he speak to the prosecutors on November 30th?  
 23 A. Yes.  
 24 Q. Could you tell the Court how many  
 25 of the prosecutors have joined in your lawsuit?

Page 340

1 A. None that I know of.  
 2 Q. It says; "If you're interested in  
 3 doing something about MERS, please talk to your  
 4 prosecutors before the 30th." That would be  
 5 November 30th of 2011, right?  
 6 A. Correct.  
 7 Q. "They do know about this suit, and  
 8 all the time and money that we have already  
 9 invested in it." Do you see that?  
 10 A. Yes.  
 11 Q. Describe for me under oath and on  
 12 the record all of the money that you have  
 13 invested in this lawsuit.  
 14 A. Well, the money would be -- and,  
 15 actually, that probably wasn't real accurate,  
 16 because the money would be the research done.  
 17 Q. What research was done by your  
 18 office?  
 19 MR. SIEBOTT: Objection. That's  
 20 trial preparation.  
 21 MR. CARPENTER: She's a public  
 22 official in Ohio. Are you intending to  
 23 obstruct my chance to ask her questions on  
 24 this?  
 25 MR. SIEBOTT: Yes.

Page 341

1 MR. CARPENTER: Are you instructing  
 2 her not to answer?  
 3 MR. SIEBOTT: I'm instructing her  
 4 not to answer that question.  
 5 MR. CARPENTER: As to what research  
 6 was done by her office with respect to this  
 7 lawsuit?  
 8 MR. SIEBOTT: Correct.  
 9 MR. CARPENTER: And the basis for  
 10 your objection is what?  
 11 MR. SIEBOTT: Trial preparation.  
 12 Any research that was done was done at the  
 13 direction of the county prosecutor, and is  
 14 trial preparation.  
 15 Q. Do you consider the work done by  
 16 your office during your business hours to be  
 17 private and not available to the citizens of  
 18 Ohio, Ms. Gingerich?  
 19 A. It was trial preparation.  
 20 Q. So you and Mr. Joyce were planning  
 21 on going to trial before you retained the  
 22 Bernstein Liebhard law firm; is that correct?  
 23 A. Correct.  
 24 Q. When did you first, you and  
 25 Mr. Joyce, get together and decide that you

Page 342

1 were going to prepare to take this case to  
 2 trial? Give me the date.  
 3 A. I don't know the date. It was --  
 4 it was in the fall.  
 5 Q. The fall of what year?  
 6 A. Of 2011.  
 7 Q. And where did you first meet about  
 8 that?  
 9 A. In my office.  
 10 Q. Was that a private meeting or a  
 11 public meeting?  
 12 A. Private.  
 13 Q. Did you keep any records of that  
 14 meeting with Mr. Joyce?  
 15 A. I did not.  
 16 Q. And did Mr. Joyce tell you that  
 17 that meeting was privileged and confidential?  
 18 A. He didn't say -- no.  
 19 Q. And was anyone else present at the  
 20 meeting?  
 21 A. No.  
 22 Q. And other than the research that  
 23 your lawyer has instructed you not to provide  
 24 any information to me about, what money did  
 25 your Recorder's Office expend and have invested



Page 343	Page 345
<p>1 in this lawsuit?</p> <p>2 A. When I said that, I meant the</p> <p>3 attorneys.</p> <p>4 Q. I'm sorry. I don't understand what</p> <p>5 you're saying.</p> <p>6 A. But that was wrong, because I see</p> <p>7 in the agreement that there is no money expent</p> <p>8 until afterwards. So this is a misstatement.</p> <p>9 Q. So this statement on Exhibit 48</p> <p>10 that you sent out as the MERS update story,</p> <p>11 when it says that you have invested all the</p> <p>12 time and money in this suit, that was a false</p> <p>13 statement?</p> <p>14 A. I did not send this out.</p> <p>15 Q. Why did you prepare this?</p> <p>16 A. These were my notes that I</p> <p>17 presented at the ORA.</p> <p>18 Q. You presented these notes?</p> <p>19 A. I said -- I said this. I did not</p> <p>20 give this paper to them. I said it.</p> <p>21 Q. Do you think there's a difference</p> <p>22 between saying it to the Ohio Recorders</p> <p>23 Association and actually handing this document</p> <p>24 to them?</p> <p>25 A. Yes. Because I probably didn't say</p>	<p>1 Q. What about time; have you spent any</p> <p>2 time invested in this lawsuit?</p> <p>3 A. Staff has, yes.</p> <p>4 Q. Your staff at the Geauga County</p> <p>5 Recorder's office?</p> <p>6 A. Yes.</p> <p>7 Q. And how much time have they spent</p> <p>8 on this lawsuit?</p> <p>9 A. We did not keep track.</p> <p>10 Q. You did not attempt to account to</p> <p>11 the citizens of Geauga County or Ohio for that</p> <p>12 time, correct?</p> <p>13 MR. SIEBOTT: Objection.</p> <p>14 Foundation.</p> <p>15 Q. Correct?</p> <p>16 A. Correct.</p> <p>17 Q. Would that have been during their</p> <p>18 workday?</p> <p>19 A. Yes.</p> <p>20 Q. Would it have been on their work</p> <p>21 computers?</p> <p>22 A. Yes.</p> <p>23 Q. Did you type these notes to the</p> <p>24 Ohio Recorders Association for your</p> <p>25 presentation on your work computer during your</p>
Page 344	Page 346
<p>1 everything that's in it.</p> <p>2 Q. Well, did you say that you had</p> <p>3 invested time and money in this lawsuit?</p> <p>4 A. Probably.</p> <p>5 Q. And I'm asking you what money had</p> <p>6 you invested in the lawsuit when you told the</p> <p>7 Ohio Recorders Association that?</p> <p>8 A. And I'm just saying nothing. I was</p> <p>9 wrong. It was -- I misspoke.</p> <p>10 Q. Have you paid or deferred or in any</p> <p>11 way defrayed the cost of travel to Ohio for the</p> <p>12 New York City law firm that you retained?</p> <p>13 A. Have I paid them?</p> <p>14 Q. Has the county of Geauga County --</p> <p>15 A. No.</p> <p>16 Q. To your knowledge, they've submit</p> <p>17 to no bills for any expenses incurred in this</p> <p>18 case?</p> <p>19 A. That's correct.</p> <p>20 Q. Would you see those, or would your</p> <p>21 prosecutor, David Joyce, have those?</p> <p>22 A. David would have them.</p> <p>23 Q. And he's not mentioned that to you,</p> <p>24 correct?</p> <p>25 A. Correct.</p>	<p>1 workday?</p> <p>2 A. Yes.</p> <p>3 - - - - -</p> <p>4 (Thereupon, Deposition Exhibit 66, A</p> <p>5 Document Bates Stamped GCR-001467,</p> <p>6 was marked for purposes of</p> <p>7 identification.)</p> <p>8 - - - - -</p> <p>9 Q. This one is Bates numbered</p> <p>10 GCR-001467. Is this a White Paper that you</p> <p>11 would have prepared, Ms. Gingerich?</p> <p>12 A. Yes.</p> <p>13 Q. And why did you prepare this?</p> <p>14 A. Because Zach asked me to.</p> <p>15 Q. Zach Holzapfel?</p> <p>16 A. Yes.</p> <p>17 Q. At Hicks Partners?</p> <p>18 A. Correct.</p> <p>19 Q. Is Zach Holzapfel the lobbyist for</p> <p>20 the Ohio Recorders Association?</p> <p>21 A. Yes.</p> <p>22 Q. Is Hicks Partners also your</p> <p>23 lobbyist; that is, for Geauga County Recorder's</p> <p>24 Office?</p> <p>25 A. No.</p>

17 (Pages 343 - 346)

Page 347

1 Q. Do you pay him anything?

2 A. No.

3 Q. He's paid out of the funds of the

4 Ohio Recorders Association?

5 A. Yes.

6 Q. And why did Zach Holzapfel ask you

7 to prepare this?

8 A. Because he wanted to know -- he

9 wanted a White Paper. I --

10 Q. Does Zach Holzapfel have the duty,

11 power or authority to direct you to prepare

12 things on county time on county computers if he

13 requests it?

14 A. No.

15 Q. So if Zach Holzapfel instructed you

16 to do other things with respect to Geauga

17 County Recorder's Office, would you do them?

18 A. Well, if it had to do with the

19 Recorders Association, yes.

20 Q. And why is that?

21 A. Because I'm a member of the

22 Recorders Association. Because I'm on the

23 Legislative Committee and Q&A.

24 Q. So if he said to you I want you to

25 stop charging money for recording a deed on

Page 348

1 behalf of the Ohio Recorders Association, would

2 you stop charging?

3 A. No.

4 Q. What if he told you I want you to

5 start sending one dollar from every recording

6 fee to the Ohio Recorders Association; would

7 you do that?

8 A. No.

9 Q. So there are things in which you in

10 your discretion would determine not to do,

11 correct?

12 A. Correct.

13 Q. But with respect to this request by

14 Mr. Holzapfel, that is marked as Exhibit 66,

15 you, in fact, agreed to do it on county time,

16 correct?

17 A. Correct.

18 Q. The last sentence of this document

19 says; "The Ohio Revised Code in relation to

20 mortgage recording should be strengthened by

21 legislation." Do you see that?

22 A. I do.

23 Q. I take it since you prepared this

24 you felt that the Ohio Revised Code in relation

25 to mortgage recordings was not as strong as you

Page 349

1 would like it, correct?

2 A. Correct.

3 Q. What specifically did you want to

4 see the legislation strengthen to provide?

5 MR. SIEBOTT: Objection. This was

6 asked and answered yesterday.

7 A. I wanted to see the code enforced.

8 I wanted to see -- I wanted to see you pay the

9 recording fees that are supposed to be paid.

10 Q. Did you want to see you be given

11 the right to sue private citizens if they did

12 not record a document?

13 A. No.

14 - - - - -

15 (Thereupon, Deposition Exhibit 67, A

16 Document Bates Stamped GCR-001505,

17 was marked for purposes of

18 identification.)

19 - - - - -

20 Q. Ms. Gingerich, I'm going to hand

21 you what's been marked as Exhibit 67. Here's a

22 copy for your counsel.

23 MS. GOODMAN: The White Paper was

24 already an exhibit.

25 MR. CARPENTER: We'll just leave

Page 350

1 it, since I've already marked it. Thank you.

2 Q. Ms. Gingerich, looking at Exhibit

3 67, who is Jim Helmink?

4 A. He is someone who I met who was

5 running for an office.

6 Q. What office?

7 A. State Rep.

8 Q. From what county?

9 A. Cuyahoga.

10 Q. Cuyahoga County?

11 A. Correct.

12 Q. Where did you meet him?

13 A. At a holiday party.

14 Q. Where was that holiday party?

15 A. At -- in Mentor.

16 Q. Did Mr. Helmink get elected?

17 A. I don't think so.

18 Q. According to this, he says he was

19 very interested in what you had to say on MERS.

20 Were the two of you talking at the Mentor

21 holiday party about the MERS lawsuit?

22 A. Yes.

23 Q. What were you telling him?

24 A. I was telling him that we had

25 brought suit.

<p style="text-align: right;">Page 351</p> <p>1 Q. Did you forward him any 2 information? 3 A. If I did, it would have been just 4 the lawsuit. 5 MR. CARPENTER: The Bates numbers 6 for Exhibit 67 are GCR-001505. And let's mark 7 this as 68. 8 - - - - - 9 (Thereupon, Deposition Exhibit 68, A 10 Document Bates Stamped GCR-001508 11 Through GCR-001509, was marked for 12 purposes of identification.) 13 - - - - - 14 Q. Ms. Gingerich, you've been handed 15 what we've marked as Exhibit 68, which bears 16 Bates numbers GCR-001508 to 1509. 17 Do you have that in front of you, 18 ma'am? 19 A. Yes. 20 Q. And this is the same Robert Holman? 21 A. Yes. 22 Q. Do you see after his name he puts 23 "Esquire"? 24 A. Yes. 25 Q. Does that refresh your memory as</p>	<p style="text-align: right;">Page 353</p> <p>1 A. Yes. 2 Q. Did he charge you anything for his 3 advice during that meeting? 4 A. No. 5 Q. Do you know why Mr. Holman is so 6 interested in your litigation? 7 A. Because he's a title person. 8 Q. Has he offered to join in the 9 lawsuit? 10 A. No. 11 Q. Has he offered his organization to 12 join in the lawsuit? 13 A. Not to my knowledge. 14 - - - - - 15 (Thereupon, Deposition Exhibit 69, A 16 Document Bates Stamped GCR-001512 17 Through GCR-001513, was marked for 18 purposes of identification.) 19 - - - - - 20 Q. This is Exhibit 69. It's marked 21 GCR-001512 and 1513. Ms. Gingerich, do you 22 recognize this as an e-mail you sent to Zach 23 Holzapfel on or about November 7, 2011? 24 A. No. 25 Q. I apologize. You sent it to Barb</p>
<p style="text-align: right;">Page 352</p> <p>1 to -- 2 A. Yes. Obviously, yes. 3 Q. He is a lawyer, correct? 4 A. Yes. 5 Q. And Oakwood Village is in Cuyahoga 6 County, right? 7 A. Yes. 8 Q. Is says he was hoping to schedule a 9 meeting to meet with you at your office. Do 10 you see that? 11 A. Yes. 12 Q. Did that meeting occur? 13 A. Yes. 14 Q. At your office? 15 A. Yes. 16 Q. In Geauga County, during the course 17 of business days, correct? 18 A. Yes. 19 Q. And it says; "The purpose of the 20 visit would be to discuss the MERS litigation 21 and ways we might be able to help your office 22 and the other County Recorders to understand 23 the importance of challenging MERS for the 24 future of land title records." Do you see 25 that?</p>	<p style="text-align: right;">Page 354</p> <p>1 Sessler, correct? 2 A. Correct. 3 Q. Who is Barb Sessler? 4 A. She was another Recorder, Erie 5 County. 6 Q. Is she still the Erie County 7 Recorder? 8 A. Yes. 9 Q. And you wrote Barb a note. You 10 said; "Barb, will Zach be talking about MERS, 11 or should I give an update for the Q&amp;A 12 section?" Do you see that? 13 A. Yes. 14 Q. Were you and Zach acting 15 interchangeably on the MERS lawsuit? 16 A. I'm not -- what do you mean? 17 Q. Well, in other words, either you 18 could speak about the MERS lawsuit or Zach 19 Holzapfel from Hicks Partners could speak about 20 it to the Ohio Recorders Association, correct? 21 A. Yes. 22 Q. Who was paying Zach Holzapfel for 23 his lobbying charges, public relations charges 24 for Geauga County? 25 A. Well, the Recorders Association</p>

<p style="text-align: right;">Page 355</p> <p>1 pays Zach.</p> <p>2 Q. And my question is then, that</p> <p>3 Geauga County is not paying him, but he's</p> <p>4 speaking on behalf of Geauga County, correct?</p> <p>5 A. He -- he could have, yeah.</p> <p>6 Q. Well, he was speaking about the</p> <p>7 Geauga County MERS lawsuit, correct?</p> <p>8 A. He did not.</p> <p>9 Q. He did not?</p> <p>10 A. He did not.</p> <p>11 Q. But you were talking about will he</p> <p>12 be talking about, it or should I, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Has Zach Holzapfel ever addressed</p> <p>15 the Ohio Recorders Association about your MERS</p> <p>16 lawsuit?</p> <p>17 A. I don't recall. But if he did, it</p> <p>18 was never anything specific. It was just that</p> <p>19 it existed.</p> <p>20 Q. Has the Ohio Recorders Association</p> <p>21 ever allocated any portion of Zach Holzapfel's</p> <p>22 fees from Hicks Partners to Geauga County?</p> <p>23 A. No.</p> <p>24 Q. Why not?</p> <p>25 A. Why should he? I mean, there's no</p>	<p style="text-align: right;">Page 357</p> <p>1 Q. -- that you sent to Zach Holzapfel?</p> <p>2 A. Yes.</p> <p>3 Q. You said; "I met with State</p> <p>4 Representative Marlene Anielski." Did I</p> <p>5 pronounce that correctly?</p> <p>6 A. Anielski.</p> <p>7 Q. Representative Anielski is from</p> <p>8 Cuyahoga County again, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Did you ever meet with the State</p> <p>11 Representative for Geauga County?</p> <p>12 A. No.</p> <p>13 Q. Who would that be?</p> <p>14 A. At the time we were without.</p> <p>15 Q. Do you have one now?</p> <p>16 A. We do.</p> <p>17 Q. Have you met with that person?</p> <p>18 A. No.</p> <p>19 Q. What's that person's name?</p> <p>20 A. Matt Lynch.</p> <p>21 Q. And why have you not met with Matt</p> <p>22 Lynch about your MERS lawsuit?</p> <p>23 A. Because he was just appointed a</p> <p>24 couple of weeks ago.</p> <p>25 Q. Do you intend to meet with Matt</p>
<p style="text-align: right;">Page 356</p> <p>1 reason.</p> <p>2 Q. You're on the Executive Committee</p> <p>3 of the Ohio Recorders Association?</p> <p>4 A. No.</p> <p>5 Q. You're on the Legislative</p> <p>6 Committee?</p> <p>7 A. Correct.</p> <p>8 Q. Have you ever suggested that it's</p> <p>9 only fair that since you're doing this work</p> <p>10 with Zach Holzapfel for the Geauga County</p> <p>11 lawsuit that Geauga County reimburse Mr.</p> <p>12 Holzapfel for the time spent?</p> <p>13 MR. SIEBOTT: Objection.</p> <p>14 Foundation.</p> <p>15 A. No.</p> <p>16 - - - - -</p> <p>17 (Thereupon, Deposition Exhibit 70, A</p> <p>18 Document Bates Stamped GCR-001524</p> <p>19 Through GCR-001525, was marked for</p> <p>20 purposes of identification.)</p> <p>21 - - - - -</p> <p>22 Q. This document bears Bates number</p> <p>23 GCR-001524 to 1525. Do you recognize this, Ms.</p> <p>24 Gingerich, as an e-mail --</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 358</p> <p>1 Lynch?</p> <p>2 A. At this point, no.</p> <p>3 Q. Why not?</p> <p>4 A. Because I'm staying out of it.</p> <p>5 Q. What do you mean by that, "staying</p> <p>6 out of it"?</p> <p>7 A. I just -- I'm going to let the</p> <p>8 lawyers handle it.</p> <p>9 Q. As the Recorder of Geauga County,</p> <p>10 is it your view to this lawsuit is no longer</p> <p>11 something that you have an interest in?</p> <p>12 A. No.</p> <p>13 Q. But you're going to let the lawyers</p> <p>14 handle it?</p> <p>15 A. Yes.</p> <p>16 Q. And do you believe that even though</p> <p>17 the lawsuit would have an impact on you at the</p> <p>18 Geauga County Recorder's, you're going to let</p> <p>19 the lawyers take care of discharging your</p> <p>20 duties?</p> <p>21 MR. SIEBOTT: Objection.</p> <p>22 Foundation.</p> <p>23 A. That's -- those aren't my duties.</p> <p>24 Q. Is that part of your election</p> <p>25 campaign, that you're going to stay out of this</p>

Page 359

1 case?  
 2 A. No.  
 3 Q. Have you posted that on your  
 4 website?  
 5 A. That I'm going to stay out of the  
 6 case? No.  
 7 Q. That you're going to let the  
 8 lawyers handle it?  
 9 A. No.  
 10 Q. Has Marlene Anielski introduced any  
 11 legislation you may need?  
 12 A. No.  
 13 Q. Have you asked her to introduce any  
 14 legislation?  
 15 A. She offered.  
 16 Q. Have you asked her to do that?  
 17 A. No.  
 18 Q. Have you drafted any proposed  
 19 legislation that you may need on your MERS  
 20 lawsuit?  
 21 A. No.  
 22 Q. Who would do that?  
 23 A. Who would draft proposed  
 24 legislation?  
 25 Q. Yes. Who would do that for you?

Page 360

1 A. A State Rep. An elected official.  
 2 Q. Matt Lynch?  
 3 A. Matt Lynch.  
 4 Q. Why would Representative Anielski  
 5 introduce legislation for Geauga County?  
 6 MR. SIEBOTT: Objection.  
 7 Foundation.  
 8 A. Because legislation would have been  
 9 for the State. Not -- but we didn't need any,  
 10 so --  
 11 Q. It was determined you didn't need  
 12 any legislation; is that correct?  
 13 A. Well, no. Because if we follow the  
 14 code.  
 15 Q. And who determined that, that you  
 16 did not need any legislation?  
 17 A. There wasn't any specific  
 18 conversation or any specific determination. It  
 19 just hasn't happened.  
 20 Q. My question to you is; as a member  
 21 of the Legislative Committee for the Ohio  
 22 Records Association, did your committee  
 23 determine that you did not need legislation?  
 24 A. My committee did not talk about  
 25 MERS to me.

Page 361

1 Q. So the Ohio Recorders Association  
 2 has never considered legislation to alter the  
 3 MERS system in Ohio; is that correct?  
 4 A. Not that I know of. Not that I --  
 5 Q. Not while you've been present?  
 6 A. Correct.  
 7 Q. And you've never asked them to  
 8 consider preparing or proposing legislation  
 9 that would address the MERS system in Ohio,  
 10 correct?  
 11 A. That is correct.  
 12 MR. SIEBOTT: I would like to take  
 13 a break.  
 14 MR. CARPENTER: I've got one more  
 15 here that. Why don't you let me finish this  
 16 one.  
 17 - - - - -  
 18 (Thereupon, Deposition Exhibit 71, A  
 19 Document Bates Stamped GCR-001528  
 20 Through GCR-001530, was marked for  
 21 purposes of identification.)  
 22 - - - - -  
 23 Q. Ms. Gingerich, do you see this is  
 24 another e-mail to you from Robert Holman, dated  
 25 November 2, 2011?

Page 362

1 A. Yes.  
 2 Q. He references that he was handling  
 3 a Municipal Court case for a client in  
 4 Massillon, Ohio. Do you see that?  
 5 A. Yes.  
 6 Q. And that refreshes your memory that  
 7 he was, in fact, a lawyer?  
 8 A. Yes.  
 9 Q. Does it refresh your memory as to  
 10 whether he ever provided legal advice to you,  
 11 or provided you with a legal opinion as to the  
 12 MERS system?  
 13 A. He did not.  
 14 Q. Did you ever reimburse on behalf of  
 15 Geauga County Mr. Holman?  
 16 A. No.  
 17 Q. Do you consider Mr. Holman one of  
 18 the lawyers that you are conferring with and  
 19 leaving this case to at this point?  
 20 A. No.  
 21 MR. CARPENTER: That's a good time  
 22 for a break. That was GCR-001528 to 1530.  
 23 (Thereupon, a recess was taken.)  
 24 MR. CARPENTER: Back on the record.  
 25 - - - - -

<p style="text-align: right;">Page 363</p> <p>1 (Thereupon, Deposition Exhibit 72, A 2 Document Bates Stamped GCR-001574 3 Through GCR-001580, was marked for 4 purposes of identification.) 5 - - - - - 6 Q. We have marked as Exhibit 72 Bates 7 numbered document GCR-001574 through 1580. 8 Ms. Gingerich, do you recognize 9 this as a series of e-mails between you and 10 Zach Holzapfel of Hicks Partners? 11 A. Yes. 12 Q. And I believe it also includes near 13 the back some e-mails between you and 14 Mr. Holman again; do you see that? 15 A. Yes. 16 Q. On the second page, 1575 on the 17 Bates number, do you see Zach, who signed his 18 name "Z"; is that correct? 19 A. Yes. 20 Q. He said; "Sharon, I would encourage 21 that you work on a White Paper outlining 22 concerns, objectives, supporting arguments for 23 the legislation. We can then take that to the 24 Association to determine how we move forward. 25 Thanks for the information."</p>	<p style="text-align: right;">Page 365</p> <p>1 Q. And whose idea was it to do 2 legislation? 3 A. I mentioned it -- Marlene asked 4 me -- oh, okay. Marlene asked me. She said oh 5 you want -- if you need any legislation 6 drafted, I'll do it. And I told Zach. 7 Q. And who's Marlene? 8 A. Marlene Anielski. 9 Q. And who brought up the legislation 10 with Marlene Anielski? Was that you? 11 A. She did. 12 Q. In a conversation with you? 13 A. Yes. 14 Q. And you're explaining to her about 15 the MERS lawsuit? 16 A. Yes. 17 Q. And she said if you need 18 legislation, let me know, I'll introduce it? 19 A. Yes. 20 Q. And then you went to Zach Holzapfel 21 at Hicks Partners, your public relations 22 lobbyist firm in Columbus, Ohio, and you told 23 Zach Holzapfel about it; is that correct? 24 A. I did. 25 Q. And then Zach instructed you to</p>
<p style="text-align: right;">Page 364</p> <p>1 Does that refresh your memory as to 2 whether you were ever involved in proposing 3 legislation for the Ohio Recorders Association? 4 A. We didn't propose legislation. 5 Q. Were you involved in taking to the 6 Ohio Recorders Association a request to propose 7 legislation? 8 A. No. 9 Q. And does Mr. -- you want to change 10 your answer? 11 A. Yes. I wrote this because he said 12 that -- because what he said, we can then take 13 it to the Association to determine how to move 14 forward. But he never did that, to my 15 knowledge. 16 Q. So it's like the chicken and the 17 egg. Which came first; Mr. Holzapfel's desire 18 to take legislation to the Recorders 19 Association, or your desire to have Mr. 20 Holzapfel take legislation to the Ohio 21 Recorders Association? 22 A. I don't know which came first. 23 Q. Whose idea was it, yours or 24 Mr. Holzapfel's? 25 A. To do a White Paper? His.</p>	<p style="text-align: right;">Page 366</p> <p>1 prepare a White Paper, correct? 2 A. Correct. 3 Q. And that's what this exhibit is, 4 correct? 5 A. Correct. 6 Q. And if Zach Holzapfel requested you 7 to do that on behalf of the Association, you 8 were going to do it, correct? 9 A. Correct. 10 Q. And you did, in fact, prepare a 11 White Paper; did you not? 12 A. I did. 13 Q. And you provided it to Zach? 14 A. I did. 15 Q. And no legislation has ever been 16 proposed, correct? 17 A. Correct. 18 Q. None has ever been approved by the 19 Ohio Recorders Association? 20 A. Correct. 21 Q. If you will look at Exhibit 51, I 22 believe that we marked yesterday. If not, I 23 have another copy and we can remark this. 24 MR. SIEBOTT: The White Paper? 25 MR. CARPENTER: Yes. Does it look</p>

22 (Pages 363 - 366)

<p style="text-align: right;">Page 367</p> <p>1 like this?</p> <p>2 MR. SIEBOTT: No.</p> <p>3 Q. I thought perhaps this was marked</p> <p>4 yesterday. I'm sorry, Ms. Gingerich.</p> <p>5 - - - - -</p> <p>6 (Thereupon, Deposition Exhibit 73, A</p> <p>7 Document Bates Stamped GCR-001593</p> <p>8 Through GCR-001602, was marked for</p> <p>9 purposes of identification.)</p> <p>10 - - - - -</p> <p>11 Q. We've now marked as Exhibit 73 a</p> <p>12 cover e-mail from you dated 11-28-2011 to Zach</p> <p>13 Holzapfel. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And it is marked -- this document,</p> <p>16 Exhibit 73, is Bates numbered GCR-001593 to</p> <p>17 1602.</p> <p>18 It says; "Zach, attached please</p> <p>19 find the White Paper you requested." Correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you drafted it at his request,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. And you sent a copy to Rick as</p> <p>25 well, correct?</p>	<p style="text-align: right;">Page 369</p> <p>1 Q. He says; "We can then take that to</p> <p>2 the Association to determine how we move</p> <p>3 forward." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And it was taken to the</p> <p>6 Association, correct?</p> <p>7 A. I do not know if he gave that to</p> <p>8 the Association.</p> <p>9 Q. Well, you certainly gave it --</p> <p>10 A. No to my knowledge.</p> <p>11 Q. You certainly gave it to Rick of</p> <p>12 Stark County, the President of the Ohio</p> <p>13 Recorders Association, correct?</p> <p>14 A. Correct.</p> <p>15 Q. That's as high up as it guess in</p> <p>16 the Ohio Recorders Association, isn't it?</p> <p>17 A. Yes. But I don't know if he gave</p> <p>18 it to the committee or anybody else.</p> <p>19 Q. Did Rick from Stark County ever</p> <p>20 introduce it?</p> <p>21 A. No.</p> <p>22 Q. Someone has just given me a note</p> <p>23 that says -- is his name Rick Campbell?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Good. We don't want to</p>
<p style="text-align: right;">Page 368</p> <p>1 A. Correct.</p> <p>2 Q. Who is Rick?</p> <p>3 A. The President of the ORA.</p> <p>4 Q. What is his last name?</p> <p>5 A. It's Stark County. It's Rick --</p> <p>6 Rick -- why can't I think of that -- I'm</p> <p>7 drawing a blank. Rick -- I'm drawing a blank.</p> <p>8 It's on the other documents.</p> <p>9 Q. He is the Stark County Recorder?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. We'll find his name.</p> <p>12 If you go back to page 1597 on the</p> <p>13 bottom right, do you see Zach Holzapfel writing</p> <p>14 you on November 22, 2011?</p> <p>15 A. Yes.</p> <p>16 Q. And he says; "I would encourage</p> <p>17 that you work on a White Paper outlining</p> <p>18 concerns/objectives/supporting arguments for</p> <p>19 the legislation." What was "the legislation"?</p> <p>20 A. There wasn't any.</p> <p>21 Q. So he was just making this request</p> <p>22 from you for the first time, and you never</p> <p>23 heard anything about it?</p> <p>24 A. No. There was no legislation. It</p> <p>25 was if there was going to be any legislation.</p>	<p style="text-align: right;">Page 370</p> <p>1 embarrass Mr. Campbell.</p> <p>2 So when we're referring to "Rick",</p> <p>3 it's Rick Campbell, the Stark County Recorder?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Thank you.</p> <p>6 - - - - -</p> <p>7 (Thereupon, Deposition Exhibit 74, A</p> <p>8 Document Bates Stamped GCR-001603</p> <p>9 Through GCR-001604, was marked for</p> <p>10 purposes of identification.)</p> <p>11 - - - - -</p> <p>12 Q. Exhibit 74, Ms. Gingerich, which is</p> <p>13 marked GCR-001603 to 14604; do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. This is your response to Jim</p> <p>16 Helmink about meeting him at the holiday party?</p> <p>17 A. Yes.</p> <p>18 Q. You said; "It was good to meet you</p> <p>19 as well." Correct?</p> <p>20 A. Yes.</p> <p>21 Q. "I'm very glad you've taken an</p> <p>22 interest in this, and hope you've seen the</p> <p>23 merits of stopping MERS." Is that what you are</p> <p>24 telling Mr. Helmink?</p> <p>25 A. Yes.</p>

23 (Pages 367 - 370)

<p style="text-align: right;">Page 371</p> <p>1 Q. "I am attaching a copy of the</p> <p>2 lawsuit." Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. You didn't have any trouble sending</p> <p>5 Mr. Helmink, who was running for State</p> <p>6 Representative, a copy of the lawsuit, did you?</p> <p>7 A. No.</p> <p>8 Q. You didn't have any questions or</p> <p>9 problems responding to any concerns he might</p> <p>10 have had about the lawsuit, did you?</p> <p>11 A. No.</p> <p>12 - - - - -</p> <p>13 (Thereupon, Deposition Exhibit 75, A</p> <p>14 Document Bates Stamped GCR-001635</p> <p>15 Through GCR-001637, was marked for</p> <p>16 purposes of identification.)</p> <p>17 - - - - -</p> <p>18 Q. I've marked this as Exhibit 75, and</p> <p>19 it bears Bates numbers GCR-01635 to 1637.</p> <p>20 Do you recall getting a note from</p> <p>21 Barb Sessler from Erie County, the Recorder of</p> <p>22 Erie County?</p> <p>23 A. Yes.</p> <p>24 Q. She says; "Sharon, I really think</p> <p>25 Zach would prefer that you touched on this</p>	<p style="text-align: right;">Page 373</p> <p>1 A. No.</p> <p>2 Q. So you were representing by</p> <p>3 speaking to Mr. Holman that you had spoken to</p> <p>4 the Title Association, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Because he holds a position of</p> <p>7 power and authority for the Title Association?</p> <p>8 A. Yes. He's the President, I think.</p> <p>9 Q. Well, we know he's a lawyer, right?</p> <p>10 A. Right.</p> <p>11 Q. And we know he's from Cleveland,</p> <p>12 right?</p> <p>13 A. Right.</p> <p>14 Q. Do you know if he's the President?</p> <p>15 A. I think he is. I think that's what</p> <p>16 that said on that document I just read.</p> <p>17 Q. You had suggested to Barb Sessler,</p> <p>18 by the way, on the e-mail in this string, you</p> <p>19 said; "On second thought, I don't need to say</p> <p>20 anything about MERS. I would like Zach to</p> <p>21 bring it up though." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. "I met with OAUTA, Ohio Association</p> <p>24 of Independent Title Agents, and they are</p> <p>25 backing us big time." Is that true?</p>
<p style="text-align: right;">Page 372</p> <p>1 subject." Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. This was November 14, 2011; was it</p> <p>4 not?</p> <p>5 A. Yes.</p> <p>6 Q. "Zach" would be Zach Holzapfel?</p> <p>7 A. Correct.</p> <p>8 Q. She says; "he", meaning Zach,</p> <p>9 "really doesn't more about it." I think</p> <p>10 there's a word left out. But it says; "He</p> <p>11 really doesn't more about it than you do, and</p> <p>12 just like you stated, you spoke to the Title</p> <p>13 Association about this, and this would be</p> <p>14 something that the Association would like to</p> <p>15 know." When did you speak to the Title</p> <p>16 Association?</p> <p>17 A. That would be Robert Holman.</p> <p>18 Q. So did you just speak to Mr. Holman</p> <p>19 about this, or did you speak to the Title</p> <p>20 Association?</p> <p>21 A. No. Just Mr. Holman.</p> <p>22 Q. So there wasn't a speech you gave</p> <p>23 to someone in which all of the independent</p> <p>24 title agents of Ohio gathered and heard you</p> <p>25 speak?</p>	<p style="text-align: right;">Page 374</p> <p>1 A. It was Holman. I did not meet with</p> <p>2 the Association. No. Technically, no. That's</p> <p>3 not true.</p> <p>4 Q. So was or was not the Ohio</p> <p>5 Association of Independent Title Agents the</p> <p>6 organization backing you big time?</p> <p>7 A. Yes.</p> <p>8 Q. Through Mr. Holman's communications</p> <p>9 to you?</p> <p>10 A. Yes.</p> <p>11 Q. Are they still backing you big</p> <p>12 time?</p> <p>13 A. I have not spoken to him, but I</p> <p>14 would assume.</p> <p>15 Q. When's the last time you've spoken</p> <p>16 with Mr. Holman?</p> <p>17 A. It's been a while. I don't know.</p> <p>18 - - - - -</p> <p>19 (Thereupon, Deposition Exhibit 76, A</p> <p>20 Document Bates Stamped GCR-001695</p> <p>21 Through GCR-001698, was marked for</p> <p>22 purposes of identification.)</p> <p>23 - - - - -</p> <p>24 Q. Do you have Exhibit 76 in front of</p> <p>25 you, Ms. Gingerich?</p>

24 (Pages 371 - 374)



Page 375

1 A. Yes.

2 Q. By the way, when you were

3 conducting research in your office for the

4 lawsuit that we're about here in this case

5 today, how much time did you have your staff

6 spend on the research?

7 A. I don't know.

8 Q. Would it have been 100 hours, 1,000

9 hours? Can you give us some magnitude?

10 A. No.

11 Q. Did you have anybody keep track of

12 their time?

13 A. No.

14 Q. How many people in your office

15 conducted the research?

16 A. I think just Jared.

17 Q. Just Jared. Would he have spent a

18 full week on it?

19 A. I don't know.

20 Q. Would he have spent less than a

21 week?

22 A. No. He has other things to do.

23 Q. So would he have spent an hour or

24 two?

25 A. I don't know.

Page 376

1 Q. So less than a week, correct?

2 A. I don't know.

3 Q. Did you ever check with him?

4 A. I did not ask him to keep time.

5 Q. I asked did you ever check with him

6 to see how much time he was spending

7 researching the lawsuit?

8 A. No.

9 Q. Did you give him any boundaries

10 that he was not to spend more than a day or two

11 days, or whatever time?

12 A. No.

13 Q. Did you give him any supervision at

14 all in terms of his research?

15 A. No.

16 Q. Did Mr. Joyce take that role?

17 A. He communicated with, yes, the

18 attorneys.

19 Q. So Mr. Joyce was working with Jared

20 as to the research that Mr. Joyce needed?

21 A. Yeah. Mr. Joyce or Sara, yes.

22 Q. Does Mr. Joyce run your office?

23 A. No, he does not.

24 Q. Did he clear it with you first?

25 A. Yes.

Page 377

1 Q. How much time did he tell you he

2 needed from Jared?

3 A. He did not.

4 Q. So you gave him an open-ended

5 access to your employee?

6 A. I did.

7 Q. Do you do that with others?

8 A. As requested, yes.

9 Q. Exhibit 76, this is a note from you

10 to Zach Holzapfel, again, at your lobbying firm

11 in Columbus, Hicks Partners, correct?

12 A. Correct.

13 Q. The third paragraph down says; "I

14 don't want to make things worse for the ORA.

15 But I am wondering if now is the time to put

16 the Congressmen in the loop." Do you see that?

17 A. Yes.

18 Q. You're writing this as of November

19 22, 2011?

20 A. Yes.

21 Q. What did you mean by you don't want

22 to make things worse for the Ohio Recorders

23 Association?

24 A. I didn't want to involve them.

25 Q. Why not?

Page 378

1 A. Because it wasn't their lawsuit.

2 Q. And it also was something that you

3 were prosecuting on behalf of Geauga County,

4 correct?

5 MR. SIEBOTT: Objection.

6 Foundation.

7 A. I didn't -- I wasn't prosecuting

8 it.

9 Q. So the Ohio Recorders Association

10 did not -- was not involved with respect to the

11 lawsuit being brought in this case, correct?

12 A. Correct.

13 Q. And you didn't want to make things

14 worse for them by involving them, correct?

15 A. If they didn't want to be, correct.

16 Q. And did they ever express to you

17 that they wanted to be involved in this

18 lawsuit?

19 A. No.

20 Q. And the Ohio Recorders Association,

21 just so the record's clear, is a recording

22 association of all County Recorders in the

23 State of Ohio, correct?

24 A. Correct.

25 Q. And that Recorders Association told

Page 379

1 you that they did not want to be involved in  
 2 this lawsuit, correct?  
 3 A. They did not tell me that. They  
 4 didn't tell me anything.  
 5 Q. But they never got involved,  
 6 correct?  
 7 A. Correct.  
 8 MR. CARPENTER: The last exhibit  
 9 was GCR-001695 to 1698, Exhibit 76.  
 10 - - - - -  
 11 (Thereupon, Deposition Exhibit 77, A  
 12 Document Bates Stamped GCR-001713  
 13 Through GCR-001717, was marked for  
 14 purposes of identification.)  
 15 - - - - -  
 16 Q. Do you recognize Exhibit 77 as a  
 17 series of e-mails between you and Mr. Holman?  
 18 A. Yes.  
 19 Q. And you said that you believed he  
 20 was the President of the Ohio Association of  
 21 Independent Title Agents; do you see that?  
 22 A. Yes.  
 23 Q. Actually, on page 1716 he's the  
 24 President of the General Title Insurance  
 25 Company -- let me finish my question.

Page 380

1 Actually, Mr. Holman, who is a lawyer, is the  
 2 President of the General Title Insurance  
 3 Company; 24262 Broadway Avenue, Oakwood  
 4 Village, Ohio 44146, correct?  
 5 A. Correct.  
 6 Q. Does it list him as being an  
 7 officer anywhere on this e-mail of the Ohio  
 8 Association of Independent Title Agents?  
 9 A. No.  
 10 Q. Actually, it lists him as a  
 11 founding member, correct?  
 12 A. Correct.  
 13 Q. But not as an officer, correct?  
 14 A. Correct.  
 15 Q. And it lists him as the Secretary  
 16 of the National Association of Independent Land  
 17 Title Agents, but not as any member -- excuse  
 18 me -- not as any officer of the Ohio  
 19 Association of Independent Title Agents,  
 20 correct?  
 21 A. Correct.  
 22 Q. So when you spoke to him, in what  
 23 capacity was he acting?  
 24 A. I don't -- I don't know. You would  
 25 have to ask him.

Page 381

1 Q. Well, what did you tell others in  
 2 the e-mails we just covered?  
 3 A. Oh, I said the OAITA. Yes. Okay.  
 4 You're right.  
 5 Q. Did he tell you that he was the  
 6 President of the Ohio Association of  
 7 Independent Title Agents?  
 8 A. No.  
 9 Q. Did he tell you he was authorized  
 10 to speak on behalf of the Ohio Association of  
 11 Independent Title Agents?  
 12 A. No.  
 13 Q. Did you ever investigate his role?  
 14 A. No.  
 15 Q. Just for the record, where is  
 16 Oakwood Village, Ohio?  
 17 A. It's next to Walton Hills.  
 18 Q. How big of a village is it; do you  
 19 know?  
 20 A. I don't know.  
 21 Q. Less than 5,000 people?  
 22 A. I have no idea.  
 23 Q. Have you ever been there?  
 24 A. I've been through it, yes.  
 25 Q. You write him a note on the 9th of

Page 382

1 November 2011 on Exhibit 77, and now you're  
 2 calling him "hi, Robert." Are you on a first  
 3 name basis with him?  
 4 A. That's not me.  
 5 Q. That's not you. It's from Chris.  
 6 You're correct. Who's Chris Peterson?  
 7 A. He's a law professor.  
 8 Q. He's --  
 9 A. He's a dean -- Associate Dean For  
 10 Academic Affairs, Professor of Law.  
 11 Q. Have you ever talked to Chris  
 12 Peterson?  
 13 A. I have not.  
 14 Q. And he, Chris Peterson, and Robert  
 15 Holman, at least according to this e-mail, are  
 16 on a first name basis, correct?  
 17 A. Correct.  
 18 Q. Was Robert Holman attempting to  
 19 provide you with Mr. Peterson's name,  
 20 background information as a prospective expert  
 21 witness in this case?  
 22 A. He said I might want to talk to  
 23 him.  
 24 Q. Why did you choose not to talk to  
 25 him?

Page 383

1 A. Because I didn't have time.  
 2 Q. Why didn't you have time?  
 3 A. Because I'm busy.  
 4 Q. Being the Recorder of Geauga  
 5 County?  
 6 A. Yes. Yes.  
 7 Q. You're short-staffed?  
 8 A. No.  
 9 Q. You're fully staffed?  
 10 A. We are -- we have just what we  
 11 need.  
 12 Q. And just what you need for the  
 13 current volume of business, correct?  
 14 A. Correct.  
 15 Q. Did you send Mr. Holman your White  
 16 Paper?  
 17 A. I don't recall.  
 18 Q. Did you send Mr. Holman the  
 19 lawsuit?  
 20 A. I don't think so. I may have, but  
 21 I thought he already had it.  
 22 Q. Do you know where he got it?  
 23 A. Off line. I don't know. I don't  
 24 know.  
 25 Q. We've been covering a number of

Page 384

1 e-mails you have as exhibits here in this  
 2 deposition. Have you ever deleted any e-mails  
 3 from your office computer?  
 4 A. About -- I've deleted junk e-mail,  
 5 yeah.  
 6 Q. So you do delete e-mails from time  
 7 to time?  
 8 A. But not since --  
 9 Q. Not -- go ahead. Not since when?  
 10 A. Since we started all this.  
 11 Q. When was that?  
 12 A. In the fall.  
 13 Q. Of 2011?  
 14 A. Yes.  
 15 Q. Did you start with that first  
 16 meeting with David Joyce?  
 17 A. I still deleted junk mail.  
 18 Q. Okay. You're referring to you  
 19 haven't deleted anything relating to this  
 20 lawsuit?  
 21 A. Correct.  
 22 Q. What about with respect to your  
 23 communications with others about MERS; have you  
 24 deleted anything on that?  
 25 A. Not that I know of. Not that I

Page 385

1 recall.  
 2 Q. Do you have a deletion policy at  
 3 the Geauga County Recorder's Office?  
 4 A. For -- yeah. We have records  
 5 retention, yeah.  
 6 Q. Have you produced that in this  
 7 case?  
 8 A. Yes.  
 9 Q. And have you adhered to the  
 10 retention record -- the records retention  
 11 policy of Geauga County?  
 12 A. Yes.  
 13 Q. As a public official, do you have  
 14 special obligations to maintain public records?  
 15 A. Yes.  
 16 Q. Are your e-mails considered public  
 17 records?  
 18 A. Some of them are.  
 19 Q. Would those relating to this  
 20 lawsuit be considered public records?  
 21 A. Yeah.  
 22 Q. Have you deleted any of those  
 23 public records?  
 24 A. Not that I recall.  
 25 Q. But you might have?

Page 386

1 A. Not that I recall.  
 2 Q. Do you keep them in a file on your  
 3 computer?  
 4 A. Yes.  
 5 Q. What's the file called?  
 6 A. "MERS".  
 7 Q. How long have you had a MERS file  
 8 on your computer?  
 9 A. Since about October 13th.  
 10 Q. Of 2011?  
 11 A. Correct.  
 12 Q. Prior to that where did you collect  
 13 all of the information that you had on MERS?  
 14 A. I don't know how much I had. I  
 15 don't know that I had much before the lawsuit.  
 16 Q. Would it be fair to say that prior  
 17 to October 13, 2011 you had never collected and  
 18 stored any information on MERS?  
 19 A. Yeah. Not to my knowledge anyway.  
 20 Q. Is October 13, 2011 the date in  
 21 which you and Mr. Joyce first met about this  
 22 lawsuit?  
 23 A. Okay. No. That's the date he  
 24 filed it, okay. So since we talked, there may  
 25 be -- whenever that was.

<p style="text-align: right;">Page 387</p> <p>1 Q. You would have talked before he 2 filed the lawsuit, correct? 3 A. Correct. Correct. 4 Q. So prior to October 13, 2011 where 5 was the material you had on MERS on your 6 computer? 7 A. Probably in a MERS file. 8 Q. And how long had you had that MERS 9 file prior to October 13, 2011? 10 A. Probably since whenever Dave and I 11 talked about it. 12 Q. So if we looked at that file, could 13 you tell us when you first started collecting 14 material? 15 A. If -- yeah. 16 Q. And have you produced that file in 17 this case? 18 A. Yes. 19 - - - - - 20 (Thereupon, Deposition Exhibit 78, A 21 Document Bates Stamped GCR-001800, 22 was marked for purposes of 23 identification.) 24 - - - - - 25 Q. For the record, Exhibit 78 is Bates</p>	<p style="text-align: right;">Page 389</p> <p>1 opinions." Is that a true statement? 2 A. Correct. 3 Q. Would you agree with that statement 4 today, as it relates to the MERS lawsuit? 5 A. You know what? That is not a true 6 statement. There are 86 Recorders, but they do 7 not all belong to the Association. 8 Q. How many belong to the Association? 9 A. I don't know. 10 Q. So there are 86 Recorders? 11 A. Yes. 12 Q. In Ohio. And two counties do not 13 have Recorders, correct? 14 A. Correct. 15 Q. And so with respect to all of the 16 members of the Ohio Recorders Association, does 17 each one have a different opinion? 18 A. Probably. 19 Q. And you don't pretend to speak or 20 control the opinions they have or hold, do you? 21 A. No. 22 Q. And do you believe they're entitled 23 to their own opinion, correct? 24 A. Correct. 25 Q. And you believe they're entitled to</p>
<p style="text-align: right;">Page 388</p> <p>1 numbered GCR-001800. Ms. Gingerich, whose 2 notes are these? 3 A. Mine. 4 Q. And it says these are your notes 5 from the legislative meeting of February 15, 6 2012, correct? 7 A. Yes. 8 Q. And the legislative meeting would 9 be of the Ohio Recorders Association, correct? 10 A. Yes. 11 Q. Directing your attention down to 12 the full paragraph at the bottom after the 13 numbered paragraphs, do you see that; "Thoughts 14 regarding the unrest"? 15 A. Yes. 16 Q. What do you mean? What was the 17 "unrest"? 18 A. There was an issue about continuing 19 education, and who should be -- who should 20 receive continuing education if they didn't pay 21 their Recorder's fees to the Association, and 22 it was -- people had different opinions on who 23 should be allowed to have continuing education. 24 Q. It says; "There are 86 people in 25 this Association. There are 86 different</p>	<p style="text-align: right;">Page 390</p> <p>1 differ from what you are saying and doing? 2 A. Correct. 3 Q. Including in this lawsuit, correct? 4 A. Correct. 5 Q. Have you consulted with the other 6 86 Recorders in Ohio and the two counties that 7 do not have Recorders directly with respect to 8 participating in this lawsuit? 9 A. No. 10 Q. Have you ever done any sort of 11 survey or solicitation of the 86 Recorders plus 12 the two counties without Recorders with respect 13 to their opinions about this lawsuit? 14 A. No. 15 Q. Do you know if anyone else has? 16 A. I do not know. 17 MR. CARPENTER: Let me go back for 18 purposes of the record. Exhibit 77 was Bates 19 numbered GCR-001713 to 1717. 20 - - - - - 21 (Thereupon, Deposition Exhibit 79, A 22 Document Bates Stamped GCR-002644 23 Through GCR-002645, was marked for 24 purposes of identification.) 25 - - - - -</p>

28 (Pages 387 - 390)

<p style="text-align: right;">Page 391</p> <p>1 Q. Exhibit 79 is Bates numbered</p> <p>2 GCR-002644 to 002645. Do you recognize this</p> <p>3 as, first, an e-mail from you, Sharon</p> <p>4 Gingerich, to Barb Sessler on October 14, 2011?</p> <p>5 A. Yes.</p> <p>6 Q. It says; "I will wait to do</p> <p>7 anything to hear what you want me to do as to</p> <p>8 telling the other Recorders about the</p> <p>9 complaint. I really would like them to know,</p> <p>10 however, before it hits the media and they find</p> <p>11 out from the media." Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Were you distributing to the media;</p> <p>14 that is, the lawsuit?</p> <p>15 A. Did I distribute it to the media?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Who did?</p> <p>19 A. They were in the -- they were in</p> <p>20 the Commissioners meetings.</p> <p>21 Q. The media was at the Board of</p> <p>22 County Commissioners of Geauga County's meeting</p> <p>23 in which they approved the lawsuit?</p> <p>24 A. In which -- no. In which</p> <p>25 Prosecutor Joyce told them that he had filed</p>	<p style="text-align: right;">Page 393</p> <p>1 the ListServe?</p> <p>2 A. No. She put it on the Recorder's</p> <p>3 website.</p> <p>4 - - - - -</p> <p>5 (Thereupon, Deposition Exhibit 80, A</p> <p>6 Document Bates Stamped GCR-001979</p> <p>7 Through GCR-001981, was marked for</p> <p>8 purposes of identification.)</p> <p>9 - - - - -</p> <p>10 Q. Exhibit 80 is GCR-001979 to 1981.</p> <p>11 You write back to Barb Sessler on October 14th</p> <p>12 at 10:16 a.m., correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you tell her you would advise</p> <p>15 that you tell the Recorders that not discuss it</p> <p>16 on ListServe, correct?</p> <p>17 A. Correct.</p> <p>18 Q. "Not" is in all caps, correct?</p> <p>19 A. Correct.</p> <p>20 Q. "You can ask Zach." That would be</p> <p>21 Zach Holzapfel?</p> <p>22 A. Correct.</p> <p>23 Q. Why would she ask Zach?</p> <p>24 A. I don't know. Because he's their</p> <p>25 lobbyist.</p>
<p style="text-align: right;">Page 392</p> <p>1 it, or he was going to file it. Let's see.</p> <p>2 This was Friday 13th -- so the Commissioners</p> <p>3 meeting was probably on -- well, I don't know</p> <p>4 when it was. But he told them he was going to,</p> <p>5 or when he did.</p> <p>6 Q. And then Barb writes back to you;</p> <p>7 "We are putting the complaint on the Recorder's</p> <p>8 website under the membership as we speak. I</p> <p>9 will put out on the ListServe for the</p> <p>10 Association to go to the site and read it for</p> <p>11 themselves. I sent a copy to Zach and Tony</p> <p>12 yesterday." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. "We will definitely discuss it at</p> <p>15 winter conference." Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Did you?</p> <p>18 A. Yes.</p> <p>19 Q. And that's the winter conference of</p> <p>20 the Ohio Recorders Association, correct?</p> <p>21 A. Yes.</p> <p>22 Q. "Thank you for allowing me to put</p> <p>23 this out." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And did, in fact, Barb place it on</p>	<p style="text-align: right;">Page 394</p> <p>1 Q. "But I would think that it is not a</p> <p>2 good idea due to pending litigation. You know</p> <p>3 how the ListServe conversations go." Correct?</p> <p>4 A. Correct.</p> <p>5 Q. Are the ListServe conversations</p> <p>6 public record?</p> <p>7 A. Yes.</p> <p>8 Q. And you didn't want this lawsuit</p> <p>9 discussed in the public record, did you?</p> <p>10 A. No.</p> <p>11 Q. Actually, I have this marked as</p> <p>12 Exhibit 50.</p> <p>13 MR. CARPENTER: Christian, if you</p> <p>14 could just check to be sure I'm right.</p> <p>15 MR. SIEBOTT: Yes.</p> <p>16 Q. Exhibit 50, which again, for the</p> <p>17 record, is GCR-001910. Do you recognize this</p> <p>18 as Barb Sessler's communication to all on the</p> <p>19 Ohio Recorder's ListServe?</p> <p>20 A. Yes.</p> <p>21 Q. And she's communicating about "the</p> <p>22 class action lawsuit filed yesterday by the</p> <p>23 prosecuting attorney of Geauga County." Do you</p> <p>24 see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 395</p> <p>1 Q. And she says; "A copy of the suit 2 will soon be available to you on the Ohio 3 Recorders Association website under the 4 member's section." Correct? 5 A. Correct. 6 Q. And she says; "Due to the sensitive 7 nature of this action, it is vital that we do 8 not", in all caps, "discuss this on the 9 ListServe." Why is that? 10 A. Because it's pending litigation. 11 Q. And the ListServe, again, is a 12 public record, correct? 13 A. Right. 14 Q. Was it pending litigation with the 15 Ohio Recorders Association? 16 A. No. 17 Q. Was it pending litigation between 18 the Ohio Recorders Association and anyone else? 19 A. No. 20 Q. And, in fact, it was a publicly 21 filed complaint as of October 14, 2011, 22 correct? 23 A. Correct. 24 Q. Is the Ohio Recorders Association 25 in the habit of attempting to shield the</p>	<p style="text-align: right;">Page 397</p> <p>1 identification.) 2 - - - - - 3 Q. I've marked as Exhibit 81 a 4 document that bears Bates number GCR-001917. 5 This is a note from Barb Sessler, Erie County 6 Recorder, to the ListServe, correct? 7 A. Correct. 8 Q. And it's dated back in June of 9 2011, correct? 10 A. Correct. 11 Q. It says; "A brief note. Please 12 keep in mind that this ListServe is for all 13 Recorders to interact with one another on 14 issues that relate to our offices and our 15 positions." Is that true? That's what the 16 purpose of the ListServe is? 17 A. That's what she says, yes. 18 Q. "It is not, however, to be used for 19 political opinions or any other negative 20 remarks." Do you see that? 21 A. I do. 22 Q. "Please keep in mind that any of 23 these communications are subject to a public 24 records request, and they may also be viewed by 25 others that are not Recorders." Do you see</p>
<p style="text-align: right;">Page 396</p> <p>1 citizens of Ohio discussion among public 2 officials as to public actions taken by 3 Recorders? 4 A. I do not know. 5 Q. Did you request that they do that, 6 that they not discuss publicly your lawsuit? 7 A. I didn't. 8 Q. Does the code control what a public 9 official is to do with respect to blocking 10 access to public records in Ohio? 11 A. The access was not blocked. If 12 they talked to Barb, that's public records, 13 too. I just asked them not to put it on 14 ListServe. 15 Q. My question was; does the Ohio 16 Revised Code speak to public officials 17 attempting to bar the public's access to public 18 records? 19 A. Yes. 20 Q. What does it say? 21 A. It says you can't bar it. 22 - - - - - 23 (Thereupon, Deposition Exhibit 81, A 24 Document Bates Stamped GCR-001917, 25 was marked for purposes of</p>	<p style="text-align: right;">Page 398</p> <p>1 that? 2 A. Yes. 3 Q. And you knew that before you 4 requested that Ms. Sessler not place this on 5 the ListServe, correct? 6 A. Okay. Two things here. I didn't 7 tell her not to put the lawsuit on the 8 ListServe, because you cannot physically put 9 the lawsuit on the ListServe. 10 Q. Okay. 11 A. I asked her not to talk about it on 12 the ListServe. 13 Q. All right. Thank you for 14 clarifying that. 15 - - - - - 16 (Thereupon, Deposition Exhibit 82, A 17 Document Bates Stamped GCR-001963 18 Through GCR-001964, was marked for 19 purposes of identification.) 20 - - - - - 21 Q. We've marked as Exhibit 82 a 22 document bearing Bates numbers GCR-001963 to 23 1964. 24 Do you recall sending this e-mail 25 on December 21, 2011 at 8:17 p.m. to Renee</p>

30 (Pages 395 - 398)

<p style="text-align: right;">Page 399</p> <p>1 Petro?</p> <p>2 A. Yes.</p> <p>3 Q. Who's Renee Petro?</p> <p>4 A. She's one of the heads of Women</p> <p>5 Safe.</p> <p>6 Q. It says; "Renee, it's the time of</p> <p>7 the year when my pet peeve starts to choke me."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So this peeve is greater to you</p> <p>11 than MERS, correct?</p> <p>12 A. No.</p> <p>13 Q. It's your pet peeve. Do you have</p> <p>14 many pet peeves?</p> <p>15 A. It's a phrase.</p> <p>16 Q. I understand. I'm trying to get it</p> <p>17 in a hierarchy. How do you rank this one?</p> <p>18 A. There's no ranking there.</p> <p>19 Q. "It's the time of year when my pet</p> <p>20 peeve starts to choke me. My office is \$14,000</p> <p>21 short of bringing in \$900,000 for the year of</p> <p>22 2011. Half of that amount", all caps, "goes to</p> <p>23 the Ohio Housing Trust Fund." Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. What is your pet peeve about that</p>	<p style="text-align: right;">Page 401</p> <p>1 Geauga County's money, and send it to Geauga</p> <p>2 County, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Do you think the other counties</p> <p>5 would prefer to keep it, or do you think they</p> <p>6 would prefer to send it back to Geauga County?</p> <p>7 A. I don't -- I can't speak for other</p> <p>8 counties.</p> <p>9 Q. You're right. You can't speak for</p> <p>10 other counties, can you, Ms. Gingerich?</p> <p>11 MR. SIEBOTT: Objection.</p> <p>12 Argumentative.</p> <p>13 Q. What was your answer? You can't</p> <p>14 speak for other counties, can you?</p> <p>15 A. No.</p> <p>16 - - - - -</p> <p>17 (Thereupon, Deposition Exhibit 83, A</p> <p>18 Document Bates Stamped GCR-002146</p> <p>19 Through GCR-002148, was marked for</p> <p>20 purposes of identification.)</p> <p>21 - - - - -</p> <p>22 Q. Just for the record, Exhibit 83 is</p> <p>23 GCR-002146 to 2148. Another e-mail between you</p> <p>24 and Renee Petro on December 22, 2001, correct,</p> <p>25 Ms Gingerich?</p>
<p style="text-align: right;">Page 400</p> <p>1 money going to the Ohio Housing Trust Fund?</p> <p>2 A. It doesn't come back to our county.</p> <p>3 Q. Where does it go?</p> <p>4 A. Who knows.</p> <p>5 Q. To other counties?</p> <p>6 A. Yes.</p> <p>7 Q. You say, "this is so very unfair."</p> <p>8 Correct?</p> <p>9 A. Correct.</p> <p>10 Q. Is this an example of where each</p> <p>11 county controls their own operations, and</p> <p>12 counties may be pitted against each other?</p> <p>13 A. No.</p> <p>14 Q. Are you not pitted against the</p> <p>15 counties that get money that you think should</p> <p>16 go back to Geauga County?</p> <p>17 A. No.</p> <p>18 Q. So you don't mind them getting that</p> <p>19 money, correct?</p> <p>20 A. I think we should get the money we</p> <p>21 send.</p> <p>22 Q. And you don't though, do you?</p> <p>23 A. We do not.</p> <p>24 Q. And, therefore, you would like that</p> <p>25 money returned from the counties that received</p>	<p style="text-align: right;">Page 402</p> <p>1 A. Yes.</p> <p>2 Q. You say; "Ask for hundreds of</p> <p>3 thousands of dollars. I would so rather our</p> <p>4 county's taxpayers' dollars came back to Geauga</p> <p>5 than to other counties. It just eats at me,</p> <p>6 especially when I see all your needs. Grrrrr."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Do you agree that the interest of</p> <p>10 Geauga County as to what your wishes are with</p> <p>11 this, county taxpayer dollars for the Ohio</p> <p>12 Housing Trust Fund, that you would agree that</p> <p>13 you are adverse to the other counties that get</p> <p>14 your money?</p> <p>15 MR. SIEBOTT: Objection. Asked and</p> <p>16 answered.</p> <p>17 A. I already answered that.</p> <p>18 Q. And what is your answer?</p> <p>19 A. I want our money to come back to</p> <p>20 us.</p> <p>21 Q. And you would agree that your</p> <p>22 interest in Geauga County, your personal</p> <p>23 interest as expressed in this e-mail is adverse</p> <p>24 to the interest of other counties in Ohio?</p> <p>25 A. I would rather our money come to</p>

<p style="text-align: right;">Page 403</p> <p>1 us.</p> <p>2 Q. And if they're getting the money</p> <p>3 and you want it to come back to you, that is</p> <p>4 the other counties, do you consider your</p> <p>5 position to be adverse to them keeping the</p> <p>6 money?</p> <p>7 A. I don't know what their position</p> <p>8 is.</p> <p>9 Q. You sent out these e-mails, and</p> <p>10 that's your pet peeve though, correct?</p> <p>11 A. I would like to see us -- yes.</p> <p>12 Q. Have you sued any other counties to</p> <p>13 get your money back?</p> <p>14 A. No.</p> <p>15 Q. Have you talked to Mr. Joyce about</p> <p>16 suing other counties to get your money back?</p> <p>17 A. No.</p> <p>18 Q. Have you talked to Mr. Joyce about</p> <p>19 bringing a class action against Governor</p> <p>20 Kasick?</p> <p>21 A. No.</p> <p>22 Q. Have you attempted to introduce any</p> <p>23 legislation regarding the Ohio Housing Trust</p> <p>24 Fund?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 405</p> <p>1 A. Actually, this hasn't been posted</p> <p>2 yet. This is for 2011. So this is still in</p> <p>3 draft formula -- form.</p> <p>4 Q. So this is a draft letter that you</p> <p>5 will eventually post?</p> <p>6 A. Yes.</p> <p>7 Q. When will you be doing that?</p> <p>8 A. When I have time.</p> <p>9 Q. I notice the sixth bullet point</p> <p>10 down says you "work tirelessly with the Ohio</p> <p>11 Recorders Association to introduce legislation</p> <p>12 that would return a portion of the Ohio Housing</p> <p>13 trust Fund tax dollars to Geauga." Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. That's what we were just talking</p> <p>17 about?</p> <p>18 A. Yes.</p> <p>19 Q. "The effort won favor with the</p> <p>20 House and Senate and was originally included in</p> <p>21 the Budget Bill only to be omitted in the final</p> <p>22 version." Is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. I don't see any listing here on</p> <p>25 this newsletter about your MERS lawsuit.</p>
<p style="text-align: right;">Page 404</p> <p>1 Q. And what has happened?</p> <p>2 A. Nothing.</p> <p>3 Q. You attempted to introduce it,</p> <p>4 correct?</p> <p>5 A. We introduced it.</p> <p>6 Q. And it was voted down, correct?</p> <p>7 A. It passed the House, and it passed</p> <p>8 the -- when it got to the Budget Bill, it was</p> <p>9 vetoed.</p> <p>10 Q. By who?</p> <p>11 A. Probably the governor.</p> <p>12 Q. But who was the governor?</p> <p>13 A. Kasick.</p> <p>14 - - - - -</p> <p>15 (Thereupon, Deposition Exhibit 84, A</p> <p>16 Document Bates Stamped GCR-002180</p> <p>17 Through GCR-002181, was marked for</p> <p>18 purposes of identification.)</p> <p>19 - - - - -</p> <p>20 Q. What is this newsletter, Ms.</p> <p>21 Gingerich?</p> <p>22 A. This is posted on my website.</p> <p>23 Q. This is Exhibit 84, bearing</p> <p>24 GCR-002180 to 2181. When would this have been</p> <p>25 posted?</p>	<p style="text-align: right;">Page 406</p> <p>1 A. Correct.</p> <p>2 Q. Why not?</p> <p>3 A. No particular reason.</p> <p>4 Q. You've posted it on your website</p> <p>5 before?</p> <p>6 A. On my website, no.</p> <p>7 Q. Have you ever posted it in any</p> <p>8 respect in the Geauga County records?</p> <p>9 A. "Posted it", you mean -- no.</p> <p>10 Q. I mean the existence of the</p> <p>11 lawsuit.</p> <p>12 A. On my website, no.</p> <p>13 Q. Yes.</p> <p>14 A. Did I -- oh, the -- on the news</p> <p>15 link, there's a copy of the article.</p> <p>16 Q. And the news link comes from your</p> <p>17 website?</p> <p>18 A. Yes.</p> <p>19 Q. Why haven't you featured it as part</p> <p>20 of "the list of things that have happened in my</p> <p>21 office during 2011" on Exhibit 84?</p> <p>22 A. I told you. This is a draft.</p> <p>23 Q. Do you intend to amend this draft</p> <p>24 and put it on?</p> <p>25 A. I will work on it, yeah.</p>



<p style="text-align: right;">Page 407</p> <p>1 Q. Have you featured the MERS lawsuit 2 in any of your campaign literature? 3 A. No. 4 Q. Why not? 5 A. Because I haven't prepared my 6 campaign literature yet. 7 Q. Do you intend to? 8 A. I don't know. 9 Q. It says at the bottom; "Since I've 10 been your Recorder we have back-scanned 11 seven-and-a-half years of documents and indexed 12 approximately 35 volumes to prepare them for 13 back-scanning." Do you see that? 14 A. Yes. 15 Q. Was this a backlog that you 16 inherited? 17 A. Yes. 18 Q. And you're proud of having brought 19 your office current, correct? 20 A. Yes. 21 Q. It also says in the fourth bullet 22 point that you "located a facility in 23 Pennsylvania that would store our County 24 records for significantly less than what we 25 were paying." Do you see that?</p>	<p style="text-align: right;">Page 409</p> <p>1 public officials, correct? 2 A. Yes. The only things going to Iron 3 Mountain are copies of everything we have in 4 case of disaster. 5 MR. CARPENTER: I believe this was 6 Exhibit 29 before, Christian, but would you 7 just verify that for me? 8 MR. SIEBOTT: Yes. 9 Q. I'm now going to be referring then 10 to previously marked Exhibit 29, which was 11 GCR-002427 through 2431. And I apologize, Ms. 12 Gingerich, but I wasn't sure what you were 13 indicating as to this document, that is, 14 Exhibit 29. Are these notes that you took for 15 purposes of presenting a speech to someone? 16 A. These are notes to put into a 17 speech. 18 Q. When were they drafted? 19 A. I do not remember. Unfortunately, 20 they're not dated. 21 Q. And was it this year, 2012? 22 A. I don't remember. 23 Q. Were they done at -- 24 A. No. They were done last year. 25 Q. In 2011?</p>
<p style="text-align: right;">Page 408</p> <p>1 A. Yes. 2 Q. Are you storing Geauga County 3 records in Pennsylvania now? 4 A. Yes. 5 Q. Are those records subject to the 6 subpoena power of an Ohio Court? 7 A. Sure. 8 Q. And did you consult with David 9 Joyce before taking public records offsite into 10 another state? 11 A. Okay. These are the county 12 records. These are not necessarily mine. This 13 is the whole county. The county stores their 14 records at Iron Mountain. They have them. 15 They have them in their office. But this is a 16 duplicate place where we store records in case 17 of emergency. 18 Q. So it's a back-up center? 19 A. It's a back-up. 20 Q. So you still have the first set -- 21 A. Yes. 22 Q. -- in Geauga County, correct? 23 A. Yes. 24 Q. And you kept a set there because 25 you're aware of the public records nature of</p>	<p style="text-align: right;">Page 410</p> <p>1 A. Yeah. 2 Q. Okay. Were they done on your work 3 computer? 4 A. Yes. 5 Q. It says; "There's another side to 6 this issue, one that is more subtle." What is 7 "this issue" referring to? 8 A. Oh, boy. I don't know. Oh, I do 9 know. Getting rid of the consolidation of 10 government. 11 Q. What do you mean by that, "getting 12 rid of the consolidation of government"? 13 A. Consolidating government. 14 Q. Okay. There's another side to the 15 issue of consolidating government? 16 A. Yes. 17 Q. What government were you 18 directly -- let me start over. 19 What government were you referring 20 to when you said the issue of consolidating 21 government? Were you talking about Geauga 22 County? 23 A. County government, period. There 24 was a movement to consolidate county 25 government, period.</p>

33 (Pages 407 - 410)

<p style="text-align: right;">Page 411</p> <p>1 Q. Including in Geauga County?</p> <p>2 A. All counties, yes.</p> <p>3 Q. I see. So there would be a sharing</p> <p>4 of responsibilities across county lines?</p> <p>5 A. Correct.</p> <p>6 Q. And you were opposed to that,</p> <p>7 correct?</p> <p>8 A. Well, I -- I don't know if it was</p> <p>9 across county lines. I think more like the</p> <p>10 model in Cuyahoga County.</p> <p>11 Q. Okay. So where Cuyahoga County has</p> <p>12 gone to a county-wide government?</p> <p>13 A. Yes.</p> <p>14 Q. And you're opposed to that,</p> <p>15 correct?</p> <p>16 A. I am.</p> <p>17 Q. Are there other counties --</p> <p>18 obviously, Cuyahoga County believes that's a</p> <p>19 good approach, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And so you listed down through here</p> <p>22 a number of items that I assume are items that</p> <p>23 concern you about the consolidation of county</p> <p>24 government, correct?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">Page 413</p> <p>1 bad thing?</p> <p>2 A. None of them have seen any of this.</p> <p>3 These are my notes and thoughts, and I did not</p> <p>4 discuss it with them.</p> <p>5 Q. In other words, when we talked</p> <p>6 about there may be 86 other opinions, they</p> <p>7 could have all have differing opinions about</p> <p>8 these items as well, correct; that is, the</p> <p>9 other County Recorders?</p> <p>10 A. Yes.</p> <p>11 Q. Even public officials within Geauga</p> <p>12 County might have different views on this,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Number 4 is "socialize medicine."</p> <p>16 Would you agree that other County Recorders</p> <p>17 might have a different view than you on</p> <p>18 socialized medicine?</p> <p>19 A. Yes.</p> <p>20 Q. Number 5 says; "So why not get rid</p> <p>21 of the Recorder?" What is that referring to?</p> <p>22 Is there a movement in Geauga County to get rid</p> <p>23 of the Recorder?</p> <p>24 A. It's a hypothetical question.</p> <p>25 It's -- yes. Actually, yes. My opponent wants</p>
<p style="text-align: right;">Page 412</p> <p>1 Q. First you talk about "the morality</p> <p>2 of this county"; meaning, Geauga County,</p> <p>3 correct?</p> <p>4 A. No. That should be -- that should</p> <p>5 say "country".</p> <p>6 Q. So "the morality of this country</p> <p>7 got so lax", correct?</p> <p>8 A. Yes.</p> <p>9 Q. Number 2 is you "wonder how our</p> <p>10 school curriculum has changed, starting with</p> <p>11 the process at college and trickled down, one</p> <p>12 change that nobody noticed." Correct?</p> <p>13 A. Correct.</p> <p>14 Q. Number 3 is "how did you lose your</p> <p>15 right to carry a gun?" Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Do you think all County Recorders</p> <p>18 agree with you on the loss of the right to</p> <p>19 carry a gun?</p> <p>20 A. I have no idea.</p> <p>21 Q. You've not surveyed them in any</p> <p>22 way?</p> <p>23 A. I have not.</p> <p>24 Q. Do they all agree with you about</p> <p>25 school curriculums changing, that it has been a</p>	<p style="text-align: right;">Page 414</p> <p>1 to get rid of the Recorder.</p> <p>2 Q. Your opponent in this campaign?</p> <p>3 A. Yes. But this was written before</p> <p>4 that, too, so --</p> <p>5 Q. Are you opposed to abolishing the</p> <p>6 Office of Recorder in Geauga County?</p> <p>7 A. Yes.</p> <p>8 Q. Why?</p> <p>9 A. Because it serves a good purpose.</p> <p>10 We take care of those records like -- you can</p> <p>11 come to my office and find out what you need to</p> <p>12 know. I mean, government at the county level</p> <p>13 is always better.</p> <p>14 Q. And you would agree that just as</p> <p>15 you have strong feelings and opinions on that,</p> <p>16 that other counties may have Recorders with</p> <p>17 differing opinions, correct?</p> <p>18 A. About getting rid of the Recorder?</p> <p>19 I don't think so.</p> <p>20 Q. In Geauga County.</p> <p>21 A. I don't think so.</p> <p>22 Q. Well, they may have differing</p> <p>23 opinions, like they did in Cuyahoga County,</p> <p>24 right?</p> <p>25 A. Your question was of the Recorders?</p>

<p style="text-align: right;">Page 415</p> <p>1 Q. We'll start with Recorders.</p> <p>2 A. The question was they did it in</p> <p>3 Cuyahoga County. And the answer is no, the</p> <p>4 Recorder there didn't want to lose her job.</p> <p>5 Q. And you don't want to lose yours,</p> <p>6 do you?</p> <p>7 A. I want to be able to serve the</p> <p>8 people as Recorder.</p> <p>9 Q. Tell me about the Board of County</p> <p>10 Commissioners in Cuyahoga County. What was</p> <p>11 their view as to eliminating the County</p> <p>12 Recorder's Office?</p> <p>13 A. I can't speak for them. They're</p> <p>14 all gone.</p> <p>15 Q. And, likewise, the Board of County</p> <p>16 Commissioners in each county may have differing</p> <p>17 views on all sorts of things that you have</p> <p>18 listed here, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Socialized medicine, gun control,</p> <p>21 sexual preference acceptance. I see that in</p> <p>22 number 6. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. A you, as the County Recorder of</p> <p>25 Geauga County, or the Board of County</p>	<p style="text-align: right;">Page 417</p> <p>1 anything?</p> <p>2 Q. You don't want to change the</p> <p>3 independent nature of county operations through</p> <p>4 bringing this class action lawsuit, do you?</p> <p>5 A. No.</p> <p>6 Q. The page 2429, if you would look at</p> <p>7 your notes on Exhibit 29.</p> <p>8 A. I take that back. This may have</p> <p>9 been written in 2010.</p> <p>10 Q. Okay. That's fine. There's no</p> <p>11 date on it.</p> <p>12 The paragraph, the first full</p> <p>13 paragraph, Ms. Gingerich, it says; "The bottom</p> <p>14 line is that the Recorder and the other elected</p> <p>15 positions are there to give the residents their</p> <p>16 constitutional freedom to choose." Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. And you would agree that that is a</p> <p>20 statement that you still believe; that the</p> <p>21 residents of each county should have the</p> <p>22 constitutional freedom to choose, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And you don't think that right to</p> <p>25 choose should be infringed upon, do you?</p>
<p style="text-align: right;">Page 416</p> <p>1 Commissioners of Geauga County doesn't presume</p> <p>2 to speak or act on behalf of the other County</p> <p>3 Commissioners of the other counties in Ohio, do</p> <p>4 you?</p> <p>5 A. No.</p> <p>6 Q. And you believe that's one of the</p> <p>7 strengths of the Ohio system of government; is</p> <p>8 that each county operates independently with</p> <p>9 its own county government, correct?</p> <p>10 A. Okay.</p> <p>11 Q. Do you agree that that's one of the</p> <p>12 strengths of Ohio's government system?</p> <p>13 A. Yes.</p> <p>14 Q. That we have counties as political</p> <p>15 subdivisions, and those counties are authorized</p> <p>16 and empowered to operate independently of the</p> <p>17 other counties?</p> <p>18 A. Yes.</p> <p>19 Q. You don't want to change that, do</p> <p>20 you?</p> <p>21 A. No.</p> <p>22 Q. And you don't think that should be</p> <p>23 changed by the bringing of a class action</p> <p>24 lawsuit, do you?</p> <p>25 A. What does that have to do with</p>	<p style="text-align: right;">Page 418</p> <p>1 A. Correct.</p> <p>2 Q. The next paragraph begins; "The</p> <p>3 Recorder does not always agree with other</p> <p>4 officials on how land transactions should be</p> <p>5 handled." Is that true?</p> <p>6 A. Correct.</p> <p>7 Q. So even within a county -- from</p> <p>8 county to county, you could have a Recorder</p> <p>9 disagreeing with other officials on how land</p> <p>10 transactions should be handled, correct?</p> <p>11 A. Correct.</p> <p>12 Q. If you would look at the page</p> <p>13 marked GCR-2431, the very last page. Do you</p> <p>14 see it begins; "I can speak only for Cuyahoga</p> <p>15 County"?</p> <p>16 A. Yes.</p> <p>17 Q. That's a true statement, correct?</p> <p>18 A. Correct. Can we break?</p> <p>19 MR. SIEBOTT: Yeah. We'll take a</p> <p>20 break.</p> <p>21 MR. CARPENTER: I am almost to the</p> <p>22 bottom here.</p> <p>23 MR. SIEBOTT: She wants to take a</p> <p>24 break.</p> <p>25 MR. CARPENTER: That's fine. I</p>

35 (Pages 415 - 418)

<p style="text-align: right;">Page 419</p> <p>1 didn't realize.  2 (Thereupon, a recess was taken.)  3 MR. CARPENTER: Back on the record.  4 - - - - -  5 (Thereupon, Deposition Exhibit 85, A  6 Document Bates Stamped GCR-002921  7 Through GCR-002937, was marked for  8 purposes of identification.)  9 - - - - -  10 Q. We'll go back on the record, Ms.  11 Gingerich. I've handed you what's been marked  12 Exhibit 85. It bears Bates numbers GCR-002921  13 to 002937. And I was wondering what this  14 document was, and why it was produced to us,  15 and I was hoping you could help me. Do you see  16 the first couple of pages are a signature  17 page -- actually, the first three pages, and  18 then the next page says "New recording  19 guidelines effective July 1, 2009."  20 A. I honestly don't know. This looks  21 like a jumbled mess of papers that were just  22 all put together. If there's some thread that  23 runs through, I don't know what it is.  24 Q. Okay. I just wondered if you could  25 help me with that. That's sort of how it</p>	<p style="text-align: right;">Page 421</p> <p>1 A. Yes.  2 Q. And do you see Franklin Walter  3 signs this as President of the Tanglewood  4 Greene Association in Chagrin Falls. Do you  5 see that?  6 A. I do.  7 Q. He's addressing it, by the way, to  8 the Geauga County Commissioners, correct?  9 A. Yes.  10 Q. And, again, I know this is before  11 you took office, okay? I want to make that  12 clear on the record. Correct?  13 A. Correct.  14 Q. It says; "There is a problem within  15 the Geauga County Records Office which  16 unintentionally I'm sure has cost our  17 condominium association over \$5,000. I refer  18 specifically to the five-plus month delay in  19 memorializing recorded real estate documents  20 after they have been received."  21 Would you agree that a five-plus  22 month delay in memorializing real estate  23 documents is not something that would be good  24 for the citizens of Geauga County?  25 A. Would I agree, yes. I would agree</p>
<p style="text-align: right;">Page 420</p> <p>1 looked to us, too, but we thought perhaps there  2 was some magic that you could explain.  3 A. No.  4 Q. Okay. Thank you.  5 - - - - -  6 (Thereupon, Deposition Exhibit 86, A  7 Document Bates Stamped GCR-002961  8 Through GCR-002963, was marked for  9 purposes of identification.)  10 - - - - -  11 Q. Exhibit 86 has Bates numbers  12 GCR-002961 to 2963. Do you have Exhibit 86 in  13 front of you now, Ms. Gingerich?  14 A. I do.  15 Q. Do you know the Tanglewood Greene  16 Association?  17 A. I do not.  18 Q. Is Bainbridge Township in Geauga  19 County?  20 A. Yes, it is.  21 Q. And you see it's dated June 20,  22 2007?  23 A. Yes.  24 Q. And that was before you took  25 office, correct?</p>	<p style="text-align: right;">Page 422</p> <p>1 with that.  2 Q. And it's not something you would  3 tolerate as Recorder, is it?  4 A. No. I would not.  5 Q. And a delay in recording is to the  6 prejudice of the citizens you serve in Geauga  7 County, correct?  8 A. Correct.  9 Q. And at least this citizen,  10 Mr. Walter, on behalf of this association, was  11 complaining that the process of entering  12 documents into the public records must be more  13 timely, correct?  14 A. That was his opinion.  15 Q. That's what he wrote in the letter?  16 A. That was his opinion.  17 Q. Right. But you agree that timely  18 entering of documents into the public record is  19 something that's important for an effective  20 Recorder's Office, correct?  21 A. Yes.  22 - - - - -  23 (Thereupon, Deposition Exhibit 87, A  24 Document Bates Stamped GCR-002966  25 Through GCR-002968, was marked for</p>

36 (Pages 419 - 422)

Page 423	Page 425
<p>1 purposes of identification.)</p> <p>2 - - - - -</p> <p>3 Q. This is Exhibit 87. It bears Bates</p> <p>4 numbers GCR-002966 through 2968. Before I ask</p> <p>5 you about this, do you have a private e-mail</p> <p>6 address that you use at work?</p> <p>7 A. No. Well, private, as --</p> <p>8 Q. Do you have a private e-mail?</p> <p>9 A. There's one that comes to my</p> <p>10 office, yes. "SGingerich" or "Recorder". Both</p> <p>11 of those come to my office.</p> <p>12 Q. What is the private e-mail address</p> <p>13 that comes to your office?</p> <p>14 A. Both of them -- okay. After the at</p> <p>15 it's going to be the same. But the first part</p> <p>16 is, one is "SGingerich", and the other is</p> <p>17 "Recorder". And they're both</p> <p>18 "@co.geauga.oh.us".</p> <p>19 Q. Okay. So you don't have something,</p> <p>20 like, "sharon@gmail.com"?</p> <p>21 A. No.</p> <p>22 Q. None of that at your office?</p> <p>23 A. No.</p> <p>24 Q. So when we get the documents from</p> <p>25 your office at either of those two addresses,</p>	<p>1 downstairs and pull them. They're actually in</p> <p>2 files, paper.</p> <p>3 Q. Do you have any objection to the</p> <p>4 elimination or abolishment of the Torrens Land</p> <p>5 System back in 1996?</p> <p>6 A. No.</p> <p>7 Q. And you agree that it says here, at</p> <p>8 least on the front page, 2966 of Exhibit 87,</p> <p>9 that "processing land registration transactions</p> <p>10 under the Torrens System takes approximately</p> <p>11 two to three weeks." Do you see that?</p> <p>12 A. Wow.</p> <p>13 Q. Do you see that, first of all?</p> <p>14 A. I see it.</p> <p>15 Q. And do you think two to three weeks</p> <p>16 is an adequate time under our modern economic</p> <p>17 system?</p> <p>18 A. Catherine didn't have computers.</p> <p>19 So that's probably why it took two to three</p> <p>20 weeks.</p> <p>21 Q. But I'm asking today; do you think</p> <p>22 that would be an acceptable time period to</p> <p>23 record land transactions, two to three weeks?</p> <p>24 A. No. No.</p> <p>25 Q. Our current economic system in the</p>
Page 424	Page 426
<p>1 "sgingerich", or "recorder@co.geauga.oh.us", we</p> <p>2 have covered all of the e-mail addresses at</p> <p>3 your office that you use for business, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Do you have any at home that you</p> <p>6 use to conduct business for the county?</p> <p>7 A. No, I do not.</p> <p>8 Q. Looking at Exhibit 87, do you</p> <p>9 recognize this at least based on this Catherine</p> <p>10 Heiden letter, July 16, 1996, that there was an</p> <p>11 abolishment of the Torrens Land Registration</p> <p>12 System in Geauga County?</p> <p>13 A. Correct.</p> <p>14 Q. Are you familiar with the Torrens</p> <p>15 Land Registration System?</p> <p>16 A. I know what it is.</p> <p>17 Q. And do any of your older books --</p> <p>18 when I was getting out of law school and I used</p> <p>19 to have to go so title searches, I had to go to</p> <p>20 these big, huge, massive books, and I folded</p> <p>21 the pages over on each one, and I went down the</p> <p>22 index of names and so forth. Does the so Land</p> <p>23 System still exist in those older books?</p> <p>24 A. My understanding is that it's all</p> <p>25 been converted. However, you can still go</p>	<p>1 United States requires things to move almost at</p> <p>2 the speed of light through computers, correct?</p> <p>3 A. Correct.</p> <p>4 Q. That's all I have. Thank you, Ms.</p> <p>5 Gingerich, for your time.</p> <p>6 A. You're welcome.</p> <p>7 EXAMINATION OF SHARON GINGERICH</p> <p>8 BY MR. WHOLEY:</p> <p>9 Q. Good morning, Ms. Gingerich. My</p> <p>10 name is Matt Wholey, and I'll be deposing you</p> <p>11 on behalf of HSBC Bank USA. They are many</p> <p>12 times named as other entities in the complaint,</p> <p>13 such as HSBC Mortgage Corp, etc. If I ask you</p> <p>14 something about HSBC, I'm including all of them</p> <p>15 when I say that. Do you understand that?</p> <p>16 A. Yes.</p> <p>17 Q. I also want to thank you for your</p> <p>18 time. I understand it's been an ordeal. We've</p> <p>19 all been here for almost a day-and-a-half. I</p> <p>20 really appreciate you taking the time to be</p> <p>21 here.</p> <p>22 First, can you quantify or identify</p> <p>23 in any way the recording fees owed to the</p> <p>24 Recorder's Office by HSBC?</p> <p>25 A. I don't know.</p>

<p style="text-align: right;">Page 427</p> <p>1 Q. Do you know who can?</p> <p>2 A. Yeah. It would be -- you know, I'm</p> <p>3 going to take that back. You wouldn't owe</p> <p>4 anything, because we don't take credit.</p> <p>5 Q. How do you mean you don't take</p> <p>6 credit?</p> <p>7 A. You can't say record this and I'll</p> <p>8 pay you later.</p> <p>9 Q. I see. On a related point, if no</p> <p>10 one ever presents a document to the Recorder to</p> <p>11 be recorded, no fee could ever be charged; is</p> <p>12 that right?</p> <p>13 A. Correct.</p> <p>14 Q. Under any circumstances has the</p> <p>15 Recorder's Office sued HSBC or any other entity</p> <p>16 to recover fees, other than this litigation?</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. So can you identify any other</p> <p>19 damages or injury to the Recorder's Office,</p> <p>20 other than the alleged lost fees?</p> <p>21 A. The chain of title is clouded.</p> <p>22 Q. Okay. Can you describe any</p> <p>23 situation in which the Recorder's Office would</p> <p>24 incur costs because a party used the MERS</p> <p>25 system to transfer title or to effect an</p>	<p style="text-align: right;">Page 429</p> <p>1 Q. Do you know how long the county has</p> <p>2 used -- has had knowledge of the use of the</p> <p>3 MERS system by HSBC and other entities to track</p> <p>4 assignments and other transactions?</p> <p>5 A. I do not know.</p> <p>6 Q. You don't know. Okay. Do you know</p> <p>7 when HSBC first utilized MERS?</p> <p>8 A. I do not know.</p> <p>9 Q. Has the county ever objected, or</p> <p>10 has your office ever objected to HSBC's use of</p> <p>11 the MERS system?</p> <p>12 A. No.</p> <p>13 Q. If you get a mortgage to be</p> <p>14 recorded, and MERS is designated as the</p> <p>15 nominee, what does the Recorder do with that</p> <p>16 mortgage?</p> <p>17 A. Records it.</p> <p>18 Q. It doesn't reject it because MERS</p> <p>19 is the nominee?</p> <p>20 A. No.</p> <p>21 Q. Okay. Has the Recorder ever</p> <p>22 requested an Ohio Attorney General opinion</p> <p>23 regarding the use of the MERS system by HSBC</p> <p>24 and other entities?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 428</p> <p>1 assignment?</p> <p>2 A. No.</p> <p>3 Q. So no cost could be incurred by the</p> <p>4 Recorder's Office because, for example, HSBC</p> <p>5 uses the MERS system?</p> <p>6 A. That's correct.</p> <p>7 Q. And is there any way that the</p> <p>8 county could be injured because -- other than</p> <p>9 the recording fees, which we're setting</p> <p>10 aside -- because HSBC or any other entity used</p> <p>11 the MERS system?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Could the county be injured</p> <p>14 because, for example, HSBC received a priority</p> <p>15 lien over a lien holder when it was not</p> <p>16 entitled to priority?</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. How long has the Recorder's Office</p> <p>19 known that HSBC and other entities has used the</p> <p>20 MERS system?</p> <p>21 A. How long has the Recorder's Office</p> <p>22 known?</p> <p>23 Q. Yeah.</p> <p>24 A. I don't know. I can't -- I don't</p> <p>25 know.</p>	<p style="text-align: right;">Page 430</p> <p>1 Q. Has it ever asked for any opinion</p> <p>2 from any governmental entity regarding the</p> <p>3 legality of the MERS system?</p> <p>4 A. No. Not to my knowledge.</p> <p>5 Q. Okay. Can anyone else answer that</p> <p>6 question?</p> <p>7 A. The prosecutor.</p> <p>8 Q. Mr. Joyce?</p> <p>9 A. Yes.</p> <p>10 Q. Did the Recorder's Office</p> <p>11 investigate HSBC and its use of practices, use</p> <p>12 of the MERS system?</p> <p>13 A. I don't know what the discovery --</p> <p>14 I don't know what they looked for.</p> <p>15 Q. So when you say "they" --</p> <p>16 A. I couldn't answer that.</p> <p>17 Q. -- you're talking about your staff?</p> <p>18 A. Yes.</p> <p>19 Q. So you're not sure whether they did</p> <p>20 anything with HSBC specifically?</p> <p>21 A. I do not --</p> <p>22 Q. You're not aware really what they</p> <p>23 did regarding any entity?</p> <p>24 A. That's correct.</p> <p>25 Q. Now, when you reviewed documents</p>


38 (Pages 427 - 430)

<p style="text-align: right;">Page 431</p> <p>1 regarding this for this deposition, did you 2 review any regarding HSBC? 3 A. No. Not that I remember. 4 Q. So HSBC never appeared on any of 5 the documents that you reviewed? That's your 6 answer? 7 A. I don't recall. 8 Q. And then one last point, just to 9 follow-up on something you said earlier. I 10 think you stated that you never had any contact 11 with the National Association of Independent 12 Land Title Agents? 13 A. With that association, no. Only 14 Robert Holman. 15 Q. So would it surprise you that on 16 the NAILTA's website they list as one of their 17 accomplishments for 2011 their conversations 18 with you? 19 A. Yes. 20 Q. Surprised us, too. I think 21 probably that's all I have for you. I 22 appreciate your time. Thanks. 23 MR. SIEBOTT: If anyone else -- 24 MR. WHOLEY: I just want to say one 25 thing. We reserve the right, as other parties</p>	<p style="text-align: right;">Page 433</p> <p>1 Q. Thank you. 2 A. When I worked for the Red Maple Inn 3 I managed the front desk. When I worked for 4 Mary Bender I did secretarial. When I worked 5 for the oil and gas company, I did secretarial. 6 I think that's it. 7 Q. Hang on. Let me scroll back. 8 A. Now, that's going back to '65. 9 Q. And Northeast Ohio Operating, 10 that's oil and gas? 11 A. Yes. 12 Q. And what is your educational 13 background, please? 14 A. High school, some college. 15 Q. And where did you graduate high 16 school from? 17 A. Newbury. 18 Q. And when you say "some college", 19 how much is "some"? 20 A. Courses. I've taken courses, 21 English courses. 22 Q. So were you on path to get a 23 degree? 24 A. No. 25 Q. That's all I have.</p>
<p style="text-align: right;">Page 432</p> <p>1 have said, to redepose Ms. Gingerich on merits 2 issues later. 3 MR. SIEBOTT: Okay. So if no one 4 else wants to go, I'm going to ask just a 5 couple -- 6 MR. ERNST: I have two questions, I 7 think just housekeeping. They're so short 8 hopefully I'll just stay back here. 9 EXAMINATION OF SHARON GINGERICH 10 BY MR. ERNST: 11 Q. My name is Christopher Ernst. I 12 represent Chase. Ms. Gingerich, at the very 13 beginning of the deposition you talked about 14 your work experience. Can you please tell us 15 what you did at the jobs you worked at 16 previously? 17 A. At American Society For Metals I 18 was a proofreader for metallurgical journals. 19 At Farrell Chemical -- that was in there, too. 20 At Farrell Chemical I was a secretary, and I 21 did a little lab work. When I wrote for the 22 News Herald, I wrote stories. When I worked 23 for Geauga Link I did -- I input information. 24 Q. Data entry? 25 A. Data entry.</p>	<p style="text-align: right;">Page 434</p> <p>1 MR. ERNST: Obviously we reserve 2 the right to speak with Ms. Gingerich again on 3 the substance of the matter. 4 MR. SIEBOTT: Does anyone else -- 5 I'm going to take a five-minute break, come 6 back and I'm going to ask a few questions. 7 Probably the last five or 10 minutes, and then 8 whoever wants to follow-up on what I have, 9 that's fine. But, otherwise, that will be it. 10 (Thereupon, a recess was taken.) 11 MR. DUHAMEL: Can we put a 12 stipulation on the record, if you're willing to 13 agree to it, that if any one Defendant objects 14 to any of your questions, all the Defendants 15 are deemed to join that objection, unless 16 someone speaks up and asked not to join it? 17 MR. SIEBOTT: Sure. 18 MR. DUHAMEL: Thank you. The 19 alternative is -- 20 MR. SIEBOTT: Yeah. I know. 21 MR. DUHAMEL: Thank you. 22 MR. SIEBOTT: I thought through 23 that quickly. 24 EXAMINATION OF SHARON GINGERICH 25 BY MR. SIEBOTT:</p>

<p style="text-align: right;">Page 435</p> <p>1 Q. Ms. Gingerich, yesterday during the</p> <p>2 questioning from Corinthian's lawyer you were</p> <p>3 asked whether anyone had ever instructed you,</p> <p>4 or words to that effect, whether anyone had</p> <p>5 ever instructed you to preserve your e-mails</p> <p>6 and other documents for this litigation. So I</p> <p>7 want to revisit that question. I'm going to</p> <p>8 ask it again.</p> <p>9 Has anyone, any lawyer, whether in</p> <p>10 the Prosecutor's Office or a private law firm</p> <p>11 that represents the county, ever instructed you</p> <p>12 to preserve documents for this litigation,</p> <p>13 e-mails and paper documents?</p> <p>14 A. Yes.</p> <p>15 MR. DUHAMEL: Asked and answered.</p> <p>16 Q. The other question is yesterday,</p> <p>17 again, during the questions with Corinthian you</p> <p>18 were asked whether you had searched your</p> <p>19 e-mails and documents for documents responsive</p> <p>20 to Corinthian's discovery requests, and you</p> <p>21 answered that you had not. I want to ask you</p> <p>22 whether you know if anyone on your behalf has</p> <p>23 searched your e-mails and documents in order to</p> <p>24 respond to Corinthian's discovery requests in</p> <p>25 this litigation?</p>	<p style="text-align: right;">Page 437</p> <p>1 your counsel that we took a five, 10-minute</p> <p>2 break, during that five or 10-minute break did</p> <p>3 you meet with Mr. Siebott, your lawyer?</p> <p>4 A. Yes.</p> <p>5 Q. Thank you.</p> <p>6 MR. SIEBOTT: That's all, I guess.</p> <p>7 Reserving my right to review and correct.</p> <p>8 (The deposition was concluded at</p> <p>9 11:56 a.m.)</p>
<p style="text-align: right;">Page 436</p> <p>1 A. Yes.</p> <p>2 Q. Who did?</p> <p>3 A. My attorneys.</p> <p>4 Q. When did that happen?</p> <p>5 A. It's been going on. It's been</p> <p>6 ongoing.</p> <p>7 Q. Okay. Thank you. That's all the</p> <p>8 questions I have.</p> <p>9 MR. DUHAMEL: You have one</p> <p>10 follow-up question.</p> <p>11 EXAMINATION OF SHARON GINGERICH</p> <p>12 BY MR. DUHAMEL:</p> <p>13 Q. When I asked you yesterday whether</p> <p>14 or not you had been instructed to search or</p> <p>15 preserve yours e-mails and you told me no, and</p> <p>16 then you've just answered the question</p> <p>17 differently today, why the difference? Why a</p> <p>18 different answer?</p> <p>19 A. Because I forgot that I was asked.</p> <p>20 Q. Okay. Fair enough. Thank you.</p> <p>21 That's all I have.</p> <p>22 EXAMINATION OF SHARON GINGERICH</p> <p>23 BY MR. BROCHIN:</p> <p>24 Q. I have just one. Right prior to</p> <p>25 some questions that were just asked of you by</p>	<p style="text-align: right;">Page 438</p> <p>1 Whereupon, counsel was requested to give</p> <p>2 instruction regarding the witness's review of</p> <p>3 the transcript pursuant to the Civil Rules.</p> <p>4</p> <p>5 SIGNATURE:</p> <p>6 It was agreed by and between counsel and the</p> <p>7 parties that the Deponent will read and sign</p> <p>8 the transcript of said deposition.</p> <p>9</p> <p>10 TRANSCRIPT DELIVERY:</p> <p>11 Counsel was requested to give instruction</p> <p>12 regarding delivery date of transcript.</p> <p>13 ORIGINAL: Mr. Yenouskas.</p> <p>14 COPY: Mr. Brochin</p> <p>15 COPY: Mr. Duhamel</p> <p>16 COPY: Ms. Ghannoum</p> <p>17 COPY: Mr. Cunningham</p> <p>18 COPY: Mr. Carpenter</p> <p>19 COPY: Mr. Allensworth</p> <p>20 COPY: Mr. Pope</p> <p>21 COPY: Ms. Koesel</p> <p>22 COPY: Mr. Wholey</p> <p>23 COPY: Mr. Posey</p> <p>24</p> <p>25</p>

40 (Pages 435 - 438)



Page 439	Page 441
<p>1 REPORTER'S CERTIFICATE</p> <p>2 The State of Ohio, )</p> <p>3 SS:</p> <p>4 County of Cuyahoga. )</p> <p>5</p> <p>6 I, Todd L. Persson, a Notary Public</p> <p>7 within and for the State of Ohio, duly</p> <p>8 commissioned and qualified, do hereby certify</p> <p>9 that the within named witness, SHARON</p> <p>10 GINGERICH, was by me first duly sworn to</p> <p>11 testify the truth, the whole truth and nothing</p> <p>12 but the truth in the cause aforesaid; that the</p> <p>13 testimony then given by the above-referenced</p> <p>14 witness was by me reduced to stenotypy in the</p> <p>15 presence of said witness; afterwards</p> <p>16 transcribed, and that the foregoing is a true</p> <p>17 and correct transcription of the testimony so</p> <p>18 given by the above-referenced witness.</p> <p>19 I do further certify that this</p> <p>20 deposition was taken at the time and place in</p> <p>21 the foregoing caption specified and was</p> <p>22 completed without adjournment.</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 DEPOSITION REVIEW</p> <p>2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT NO. 48825</p> <p>4 CASE NAME: State of Ohio v. MERSCORP, Inc.</p> <p>5 DATE OF DEPOSITION: April 25, 2012</p> <p>6 WITNESS' NAME: Sharon Gingerich, Volume II</p> <p>7 In accordance with the Rules of Civil Procedure,</p> <p>8 I have read the entire transcript of my testimony or it</p> <p>9 has been read to me.</p> <p>10 I have made no changes to the testimony as</p> <p>11 transcribed by the court reporter.</p> <p>12</p> <p>13</p> <p>14 Date Sharon Gingerich, Volume II</p> <p>15 Sworn to and subscribed before me, a Notary Public in</p> <p>16 and for the State and County, the referenced witness did</p> <p>17 personally appear and acknowledge that:</p> <p>18</p> <p>19 They have read the transcript;</p> <p>20 They signed the foregoing sworn Statement; and</p> <p>21 Their execution of this Statement is of their free</p> <p>22 act and deed.</p> <p>23 I have affixed my name and official seal this _____</p> <p>24 day of _____, 20____.</p> <p>25</p> <p>Notary Public</p> <p>Commission Expiration Date</p>
<p>Page 440</p> <p>1 I do further certify that I am not</p> <p>2 a relative, counsel or attorney for either</p> <p>3 party, or otherwise interested in the event of</p> <p>4 this action.</p> <p>5 IN WITNESS WHEREOF, I have hereunto</p> <p>6 set my hand and affixed my seal of office at</p> <p>7 Cleveland, Ohio, on this <u>25</u> day of</p> <p>8 <u>April</u>, <del>2010</del>. <u>2012</u></p> <p>9</p> <p>10</p> <p>11</p> <p>12 <u>Todd L. Persson</u></p> <p>13 Todd L. Persson, Notary Public</p> <p>14 within and for the State of Ohio</p> <p>15</p> <p>16</p> <p>17 My commission expires July 28, 2012.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> 	<p>Page 442</p> <p>1 DEPOSITION REVIEW</p> <p>2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT NO. 48825</p> <p>4 CASE NAME: State of Ohio v. MERSCORP, Inc.</p> <p>5 DATE OF DEPOSITION: April 25, 2012</p> <p>6 WITNESS' NAME: Sharon Gingerich, Volume II</p> <p>7 In accordance with the Rules of Civil Procedure,</p> <p>8 I have read the entire transcript of my testimony or it</p> <p>9 has been read to me.</p> <p>10 I have listed my changes on the attached Errata</p> <p>11 Sheet, listing page and line numbers as well as the reason(s)</p> <p>12 for the change(s).</p> <p>13 I request that these changes be entered as part of the</p> <p>14 record of my testimony.</p> <p>15 I have executed the Errata Sheet, as well as this</p> <p>16 Certificate, and request and authorize that both be appended</p> <p>17 to the transcript of my testimony and be incorporated therein.</p> <p>18</p> <p>19</p> <p>20 Date Sharon Gingerich, Volume II</p> <p>21 Sworn to and subscribed before me, a Notary Public in</p> <p>22 and for the State and County, the referenced witness did</p> <p>23 personally appear and acknowledge that:</p> <p>24</p> <p>25 They have read the transcript;</p> <p>They have listed all of their corrections in the</p> <p>appended Errata Sheet</p> <p>They signed the foregoing sworn Statement; and</p> <p>Their execution of this Statement is of their free</p> <p>act and deed.</p> <p>I have affixed my name and official seal this _____</p> <p>day of _____, 20____.</p> <p>Notary Public</p> <p>Commission Expiration Date</p>

Page 443	
1	ERRATA SHEET
2	RENNILLO DEPOSITION & DISCOVERY - A VERITEXT COMPANY
3	ASSIGNMENT NO. 48825
4	PAGE/LINE(S) / CHANGE / REASON
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	Date Sharon Gingerich, Volume II
21	SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF
22	_____, 20____.
23	NOTARY PUBLIC
24	
25	Commission Expiration Date